stitutional rights of Moyer, Haywood, and Pettibone—to the Committee on the Judiciary.

By Mr. SULZER: Paper to accompany bill for relief of Harriet P. Porter, widow of Gen. Fitz John Porter—to the Committee on Pensions.

By Mr. WEBBER: Petition of citizens of the District of Columbia, for bill H. R. 6016 (prohibition of the liquor traffic in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. WEISSE: Petition of Madison Division, No. 73, Brotherhood of Locomotive Engineers, for the sixteen-hour bill (S. 5133)—to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Protective Tariff League, for a dual tariff—to the Committee on Ways and Means.

Also, petition of the National German-American Alliance, against bill H. R. 13655 (the Littlefield bill)—to the Committee on the Judiciary.

Also, petition of the National Business League, of Chicago, Ill., for conservation of the public domain by revision of the land laws—to the Committee on the Public Lands.

Also, petition of the National Business League, of Chicago, Ill., for reform of the consular service—to the Committee on Foreign Affairs.

Also, petition of the Immigration Restriction League, favoring restriction of immigration (S. 4403)—to the Committee on Immigration and Naturalization.

Also, petition of the Illinois Manufacturers' Association, for a deep waterway from Chicago to St. Louis—to the Committee on Rivers and Harbors.

Also, petition of the Chicago Real Estate Board, for general improvement of the Chicago River in all its branches—to the Committee on Rivers and Harbors.

Also, petition of the International Association of Machinists, for a new foundry for the Naval Gun Factory in Washington—to the Committee on Naval Affairs.

Also, petition of the American Musical Copyright League, for bill H. R. 75133—to the Committee on Patents.

SENATE.

THURSDAY, *February 14, 1907.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

CREDENTIALS.

Mr. CLARK of Wyoming presented the credentials of FRANCIS E. WARREN, chosen by the legislature of the State of Wyoming a Senator from that State for the term beginning March 4, 1907; which were read, and ordered to be filed.

Mr. CARMACK presented the credentials of Robert L. Taylor, chosen by the legislature of the State of Tennessee a Senator from that State for the term beginning March 4, 1907; which were read, and ordered to be filed.

JOSE MARCH DUPLAT.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting a note from the chargé d'affaires of Venezuela at Washington, D. C., requesting, under instruction from his Government, that permission be granted Jose March Duplat, a citizen of Venezuela, to enter the United States Military Academy at West Point, and submitting the draft of a joint resolution to carry into effect the request; which, with the accompanying paper, was referred to the Committee on Military Affairs, and ordered to be printed.

FINDINGS BY THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact filed by the court in the following causes:

In the cause of The Trustees of the Jerusalem Evangelical Lutheran Church, of Ebenezer, Ga., *v.* The United States; and

In the cause of Marie L. Hermance, administratrix of the estate of Jeremiah Simonson, deceased, *v.* The United States.

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 6691. An act granting to the Columbia Valley Railroad Company a right of way through Fort Columbia Military Reservation at Scarboro Head, in the State of Washington, and through the United States quarantine station in section 17, township 9 north, range 9 west of Willamette meridian, in said State of Washington, and for other purposes; and

S. 8288. An act authorizing and empowering the Secretary of War to locate a right of way for and granting the same and a right to operate and maintain a line of railroad through the Fort Wright Military Reservation, in the State of Washington, to the Portland and Seattle Railway Company, its successors and assigns.

The message also announced that the House had passed a bill (H. R. 20984) to provide for a land district in Valley County, in the State of Montana, to be known as the Glasgow land district; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

S. 362. An act granting an increase of pension to James M. Bullard;

S. 660. An act granting an honorable discharge to Peter Green;

S. 756. An act granting an increase of pension to Jacob Niebels;

S. 822. An act granting a pension to Michael V. Hennessy;

S. 1172. An act granting an increase of pension to Asaph H. Witham;

S. 1215. An act to correct the military record of William Fleming;

S. 1397. An act granting an increase of pension to Anna B. L. Walker;

S. 1495. An act granting an increase of pension to John Holley;

S. 1511. An act granting an increase of pension to Marvin F. Barton;

S. 1516. An act granting an increase of pension to Orlando O. Austin;

S. 1594. An act granting an increase of pension to Margaret E. Guthrie;

S. 1797. An act granting an increase of pension to John E. Henderson;

S. 2104. An act granting an increase of pension to Moses Feyler;

S. 2139. An act to remove the charge of desertion from the military record of Anton Ernst;

S. 2259. An act granting an increase of pension to Charles Duby, alias Louis Deshemean;

S. 2693. An act granting an increase of pension to Samuel Wise;

S. 2780. An act granting an increase of pension to Daniel N. McCarter;

S. 2994. An act granting an increase of pension to David Harvey;

S. 3295. An act granting an increase of pension to Anna Williams;

S. 3319. An act granting an increase of pension to James E. Croft;

S. 3320. An act granting an increase of pension to Elias H. Parker;

S. 3461. An act granting a pension to Helen L. Woodward;

S. 3583. An act granting an increase of pension to Kate O'Donnell Wood;

S. 3593. An act granting an honorable discharge to Joseph P. W. R. Ross;

S. 3668. An act to authorize the Washington, Spa Springs and Gretta Railroad Company, of Prince George County, to extend its street railway into the District of Columbia;

S. 3681. An act granting a pension to Sanford H. Moats;

S. 3882. An act granting an increase of pension to Delphine Darling;

S. 4033. An act granting an increase of pension to William Kirkwood;

S. 4055. An act granting a pension to Nancy J. Mullally;

S. 4108. An act granting an increase of pension to Martha M. Lambert;

S. 4113. An act granting an increase of pension to Dell E. Pert;

S. 4396. An act granting an increase of pension to Thomas C. Davis;

S. 4509. An act granting an increase of pension to Anna M. Loomis;

S. 4681. An act granting an increase of pension to William S. Gray;

S. 4742. An act granting an increase of pension to Mary E. Allen;

S. 4756. An act granting an increase of pension to John Kirch;

S. 4769. An act granting an increase of pension to Rosa Olds Jenkins;

S. 4813. An act granting an increase of pension to Samuel Doolittle;

S. 4818. An act granting an increase of pension to George W. Peabody;

S. 4908. An act granting an increase of pension to William H. Kimball;

S. 5021. An act granting an increase of pension to Margaret Kearney;

S. 5023. An act granting an increase of pension to Ruth E. Olney;

S. 5041. An act granting an increase of pension to George A. Tucker;

S. 5106. An act granting an increase of pension to John Adshead;

S. 5190. An act granting an increase of pension to Abby L. Brown;

S. 5292. An act granting an increase of pension to Michael J. Sprinkle;

S. 5352. An act for the relief of William H. Osenburg;

S. 5374. An act granting a pension to Floyd A. Honaker;

S. 5542. An act granting an increase of pension to Elizabeth S. Reess;

S. 5580. An act granting a pension to Julia A. Vroom;

S. 5586. An act granting an increase of pension to Albert F. Pepoon;

S. 5697. An act granting an increase of pension to George H. McLain; and

S. 8065. An act to provide for the transfer to the State of South Carolina of certain school funds for the use of free schools in the parishes of St. Helena and St. Luke, in said State.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a concurrent resolution of the legislature of the State of Kansas, in favor of the adoption of an amendment to the Constitution providing for the election of United States Senators by direct vote of the people; which was referred to the Committee on Privileges and Elections.

Mr. BRANDEGEE presented a petition of the State Association of Carpenters and Joiners, and a petition of Carpenters and Joiners' Union No. 97, of New Haven, Conn., praying for the enactment of legislation providing for an increase in the salaries of post-office clerks; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. FRYE presented petitions of sundry citizens of Wilton, North Jay, Brownfield, and Bingham, all in the State of Maine, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. MULKEY. I present a memorial of the Oregon State legislature, in favor of the election of United States Senators by the direct vote of the people. I ask that the memorial be read, and referred to the Committee on Privileges and Elections.

The memorial was read, and referred to the Committee on Privileges and Elections, as follows:

UNITED STATES OF AMERICA, STATE OF OREGON,
Office of the Secretary of State.

I, F. W. Benson, secretary of state of the State of Oregon and custodian of the seal of said State do hereby certify that the annexed page contains a full, true, and complete copy of house joint memorial No. 2, adopted by the house of representatives of the State of Oregon, January 28, 1907, and concurred in by the senate of the State of Oregon February 4, 1907, original of which memorial was filed in this office February 5, 1907.

In testimony whereof I have hereunto set my hand and seal, and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 6th day of February, A. D. 1907.

[SEAL.] F. W. BENSON, *Secretary of State.*

House joint memorial No. 2.

Whereas there is a general demand by the people of the United States and of the State of Oregon for the election of United States Senators by the direct vote of the people: Therefore, be it

Resolved by the house of representatives of the State of Oregon (the Senate concurring), That it is the sense of the people of this State that United States Senators should be elected by the direct vote of the people, and that the Congress of the United States is hereby memorialized to propose an amendment to the Constitution of the United States, providing for the election of United States Senators by the direct vote of the people, and to submit the same to conventions in the several States of the United States called for the purpose for ratification; be it further

Resolved, That a copy of this memorial be sent to the Senate and House of Representatives of the United States in Congress assembled and to the legislatures of the several States of the Union by the secretary of State.

Adopted by the house January 28, 1907.

FRANK DAVEY,
Speaker of the House.

Concurred in by the senate February 4, 1907.

E. W. HAINES,
President of the Senate.

(Indorsed:) House joint memorial No. 2. Chief Clerk. Filed February 5, 1907. F. W. Benson, secretary of state.

Mr. MULKEY. I present a memorial of the Oregon State legislature in favor of increased compensation to rural mail carriers. I ask that the memorial be read and referred to the Committee on Post-Offices and Post-Roads.

The memorial was read, and referred to the Committee on Post-Offices and Post-Roads, as follows:

UNITED STATES OF AMERICA, STATE OF OREGON,
Office of the Secretary of State.

I, F. W. Benson, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that the annexed page contains a full, true, and complete copy of house joint memorial No. 3, adopted by the house of representatives of the legislature of the State of Oregon February 1, 1907, and concurred in by the senate of the State of Oregon February 4, 1907; original of which memorial was filed in this office February 5, 1907.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 6th day of February, A. D. 1907.

[SEAL.] F. W. BENSON,
Secretary of State.

House joint memorial introduced by Mr. Holt.

Whereas since the establishment of the system of rural free delivery of mail in Oregon the State has become more populous and the labors of rural mail carriers have increased in proportion; and

Whereas the compensation paid carriers on the rural delivery routes has always been inadequate and is not commensurate with the labors performed: Therefore, be it

Resolved by the house of representatives of the State of Oregon (the senate concurring), That the compensation of rural mail carriers should be increased by Congress to at least $1,000 per annum, and that the Congress of the United States is hereby memorialized to provide a compensation of at least $1,000 per annum for rural mail carriers; be it further

Resolved, That a copy of this memorial be sent to the Oregon delegation in Congress.

Adopted by the House February 1, 1907.

FRANK DAVEY,
Speaker of the House.

Concurred in by the Senate February 4, 1907.

E. W. HAINES,
President of the Senate.

(Indorsed:) House joint memorial No. 3. Chief clerk. Filed February 3, 1907. F. W. Benson, secretary of state.

Mr. KNOX presented a petition of the Allegheny Teachers' Association, of Allegheny, Pa., praying for the enactment of legislation providing for annuities for teachers, principals, supervisors, and superintendents of public schools; which was referred to the Committee on Education and Labor.

He also presented a petition of the National League of Employees of Navy-Yards, Naval Stations, Arsenals, and Gun Factories of Continental America, of Boston, Mass., praying for the passage of the so-called "liability" and "Saturday half-holiday" bills for Government employees; which was referred to the Committee on Education and Labor.

He also presented a petition of the National Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the regulation of duties upon Philippine products, with a view of allowing every possible opportunity for the building up of the internal resources and the enlargement of the commerce of the islands; which was referred to the Committee on the Philippines.

He also presented petitions of H. O. Wilbur & Sons and of the Buchanan-Foster Company, of Philadelphia, Pa., praying for the enactment of legislation providing for a revision of the tariff laws of the Philippine Islands; which was referred to the Committee on the Philippines.

He also presented a petition of sundry members of the Medal of Honor Legion of the United States of America, of Philadelphia, Pa., praying for the enactment of legislation providing for the issuing of a medal of honor; which was referred to the Committee on Military Affairs.

He also presented a petition of Encampment No. 19, Union Veteran Legion, of Pottsville, Pa., praying for the enactment of legislation providing for the establishment of a national military park at Petersburg, Va.; which was referred to the Committee on Military Affairs.

He also presented a petition of the National Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the participation by American trade-mark owners in the benefits of the International Union for the Protection of Industrial Property; which was referred to the Committee on Patents.

He also presented petitions of J. L. Stewart, of Philadelphia, and of the Warren County Woman's Christian Temperance

Union, of Warren, in the State of Pennsylvania, and of C. F. Nesbit, of Washington, D. C., praying for an investigation of the existing conditions in the Kongo Free State; which were ordered to lie on the table.

He also presented petitions of Martha Walter, of Osterburg; G. M. Ermentrout, of Reading; J. W. Trimmer, of Altoona, all in the State of Pennsylvania, and of C. H. Unverzagt, of New York City, N. Y., praying for the passage of the so-called "Crumpacker bill" relating to postal fraud orders; which were referred to the Committee on the Judiciary.

He also presented a petition of the Coos Bay Chamber of Commerce, of Marshfield, Oreg., praying for the enactment of legislation providing for a resurvey and estimates for further improving Coos Bay bar and harbor on the Oregon coast, and also for the construction of a dredger for the ports along the coast of Oregon; which was referred to the Committee on Commerce.

He also presented a petition of the National Convention for the Extension of the Foreign Commerce of the United States, of New York City, N. Y., praying for the enactment of such legislation as will promote the extension of foreign commerce of the United States; which was referred to the Committee on Commerce.

He also presented a petition of the select and common councils of McKeesport, Pa., praying for the enactment of legislation providing for the improvement of the Youghiogheny River; which was referred to the Committee on Commerce.

He also presented a memorial of the Religious Liberty Bureau of Watertown, N. Y., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

He also presented a petition of the First Synod of the West of the United Presbyterian Church of North America, praying for the enactment of legislation providing for a so-called Sabbath law for the suppression of all unnecessary work and pastimes; which was referred to the Committee on the District of Columbia.

He also presented petitions of G. Buehler & Co., of Allentown; Samuel A. Brown, of Philadelphia; F. S. Schrade, of Monaca; Pooley Furniture Company, of Philadelphia, all in the State of Pennsylvania, praying for the adoption of certain amendments to the present denatured-alcohol bill; which were referred to the Committee on Finance.

He also presented sundry memorials of the Penn Tobacco Company, of Wilkes-Barre, Pa., and of the Independent Tobacco Manufacturers' Association of the United States, remonstrating against the passage of the so-called "free leaf tobacco bill;" which were referred to the Committee on Finance.

He also presented petitions of Messrs. Cruthfield & Woodfolk, and of Pittsburg Branch, National League of Commission Merchants of the United States, of Pittsburg, Pa., praying for the enactment of legislation to continue the minimum duty imposed by the German Government on American fruits; which were referred to the Committee on Foreign Relations.

He also presented a petition of the Illinois Manufacturers' Association, of Chicago, Ill., praying for the enactment of legislation providing for an appropriation at the present session of Congress for beginning the construction of the deep waterway between Chicago and St. Louis, and for making a survey of the Mississippi River from St. Louis to Cairo; which was referred to the Committee on Commerce.

He also presented a petition of the Council of Jewish Women, of Pittsburg, Pa., praying for the enactment of legislation providing for the appointment of a commission to investigate the question of immigration; which was ordered to lie on the table.

He also presented memorials of Colonel Fred Taylor Post, No. 19, Philadelphia; John A. Koltes Post, No. 228, Philadelphia; J. W. Reynolds Post, No. 98, Tunkhannock; Colonel Ellsworth Post, No. 209, Scottdale; The Naval Post, No. 400, Philadelphia; Lieutenant David H. Wilson Post, No. 134, Mifflintown, all Grand Army of the Republic, in the State of Pennsylvania, and of the War Veterans and Sons' Association of Brooklyn, N. Y., remonstrating against the enactment of legislation abolishing pension agencies throughout the country; which were referred to the Committee on Pensions.

He also presented the memorial of Ballinger & Perrot, of Philadelphia, Pa., remonstrating against the passage of the so-called "Crumpacker bill" relating to postal fraud orders; which was referred to the Committee on the Judiciary.

Mr. DEPEW presented petitions of sundry citizens of Brooklyn, New York, Black River, Rochester, Buffalo, Jamestown, Salamanca, Newburgh, and Troy, all in the State of New York, praying for the adoption of certain amendments to the present denatured-alcohol law; which were referred to the Committee on Finance.

Mr. GALLINGER presented the petition of Harry S. Duckworth, of Dover, N. H., praying for the adoption of certain amendments to the present denatured-alcohol law; which was referred to the Committee on Finance.

He also presented a petition of the congregation of the Free Baptist Church of Bristol, N. H., and a petition of the Woman's Christian Temperance Union of Dover, N. H., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented a petition of the North Washington Citizens' Association, of the District of Columbia, praying for the enactment of legislation providing for the extension of the tracks of the Capital Traction Company from Seventh street and Florida avenue NW. along Florida avenue east to Eighth street NE., thence south on Eighth street to Pennsylvania avenue SE.; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Columbia Heights Citizens' Association, of the District of Columbia, praying for the enactment of legislation providing for the opening and extension of streets and avenues, county roads, and suburban streets in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the memorial of John S. Wightman, of Watertown, N. Y., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to close on Sunday; which was referred to the Committee on the District of Columbia.

Mr. BURNHAM presented petitions of sundry citizens of Rockingham, N. H., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. DILLINGHAM presented a petition of sundry citizens of Barnard, Brandon, Brighton, Chester, Derby, Ludlow, Morristown, and St. Johnsbury, all in the State of Vermont, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. LONG. I present a concurrent resolution of the legislature of Kansas, which I ask may be printed in the RECORD and referred to the Committee on Privileges and Elections.

The concurrent resolution was referred to the Committee on Privileges and Elections, and ordered to be printed in the RECORD, as follows:

House concurrent resolution No. 4.

Whereas there is a widespread and rapidly growing belief that the Constitution of the United States should be so amended as to provide for the election of the United States Senators by the direct vote of the people of the respective States; and

Whereas other amendments to the United States Constitution are by many intelligent persons considered desirable and necessary; and

Whereas the Senate of the United States has so far neglected to take any action whatever upon the matter of changing the manner of electing United States Senators, although favorable action upon such proposed change has several times been unanimously taken by the House of Representatives: Therefore, be it

Resolved by the house of representatives of the State of Kansas (the senate concurring therein), That the legislature of Kansas, in accordance with the provisions of Article V of the Constitution of the United States hereby apply to and request the Congress of the United States to call a convention for the purpose of proposing amendments to the Constitution of the United States; and

Resolved, That we hereby request our Representatives in Congress and instruct our United States Senators to bring this matter to the attention of their respective bodies and to try and induce favorable action thereon; and

Resolved further, That the secretary of the State of Kansas is hereby directed to forthwith transmit a certified copy of these resolutions to the Vice-President of the United States, the Speaker of the House of Representatives in Congress, and to each of the Representatives and United States Senators in Congress from Kansas, and to the speaker of the house of representatives of each State in which the legislature is now or soon to be in session.

I hereby certify that the above concurrent resolution originated in the house and passed that body January 23, 1907.

J. S. SIMMONS,
Speaker of the House.
D. Y. WILSON,
Chief Clerk of the House.

Passed the senate February 5, 1907.

W. J. FITZGERALD,
President of the Senate.
W. S. KRETSINGER,
Secretary of the Senate.

Approved February 6, 1907.

E. W. HOCH, *Governor.*

STATE OF KANSAS,
Office of the Secretary of State.

I, C. E. Denton, secretary of state of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled resolution now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 9th day of February, 1907.

[SEAL.]

C. E. DENTON,
Secretary of State.
By J. T. BOTKIN,
Assistant Secretary of State.

Mr. LONG presented petitions of sundry citizens of Pratt, Shawnee, Sumner, Barber, Kingman, and Stevens counties, and of the Woman's Christian Temperance Unions of Mayfield, Sumner, Derby, and Sedgwick counties, all in the State of Kansas, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented a petition of the Kansas State board of agriculture, of Topeka, Kans., praying for the ratification of international reciprocity treaties; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the War Veterans and Sons' Association, of Brooklyn, N. Y., remonstrating against the enactment of legislation to abolish pension agencies throughout the country; which was ordered to lie on the table.

He also presented a memorial of the Japanese and Korean Exclusion League, of San Francisco, Cal., remonstrating against the ratification of any treaty that would be inimical to the interests of Japanese and Korean laborers; which was ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of South Ottawa, Kans., praying for an investigation of the existing conditions in the Kongo Free State; which was ordered to lie on the table.

He also presented a petition of Typographical Union No. 470, American Federation of Labor, of Pittsburg, Kans., praying for the enactment of legislation to amend and consolidate the acts respecting copyrights; which was referred to the Committee on Patents.

Mr. PERKINS presented petitions of the congregations of the Methodist Episcopal Church, the Grace Methodist Episcopal Church, the Lutheran Church, the First Baptist Church, the Presbyterian Church, and the Christian Church, of Redlands, all in the State of California, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. BERRY presented petitions of sundry citizens of Waldron and Jonesboro, in the State of Arkansas, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. DUBOIS presented a petition of Typographical Union No. 271, of Boise City, Idaho, praying for the passage of the so-called "copyright bill;" which was ordered to lie on the table.

Mr. CURTIS presented a concurrent resolution of the legislature of Kansas, in favor of the adoption of an amendment to the Constitution providing for the election of United States Senators by the direct vote of the people; which was referred to the Committee on Privileges and Elections.

He also presented petitions of sundry citizens of Kansas, of the Southern Wholesale Grocers' Association of Birmingham, Ala., and of the Smith-McCord-Townsend Dry Goods Company, of Kansas City, Mo., praying for the enactment of legislation providing for a national reciprocal demurrage law penalizing railroads for neglecting to perform their duty as common carriers of freight; which were referred to the Committee on Interstate Commerce.

He also presented petitions of sundry citizens of Saline, Chanute, and Wakefield, and of Pomona Grange, Patrons of Husbandry, of Coffey County, all in the State of Kansas, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. CLAPP presented a petition of the constitutional convention of the proposed State of Oklahoma, praying for the enactment of legislation providing that the sale of all surplus lands in the Indian Territory be restricted so as to prevent land and lease monopolies; which was referred to the Committee on Indian Affairs.

He also presented petitions of sundry citizens of Utica, Owatonna, Buffalo, Lake Crystal, Verona, and Le Roy, all in the State of Minnesota, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of the State of Minnesota, praying for the adoption of certain amendments to the present denatured-alcohol law; which was referred to the Committee on Finance.

He also presented a memorial of the Minnesota Shippers and Receivers' Association, of St. Paul, Minn., remonstrating against the action of the chairman of the Senate Committee on Interstate Commerce relative to certain railroad legislation; which was referred to the Committee on Interstate Commerce.

Mr. BLACKBURN presented a petition of sundry citizens of the State of Kentucky, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

Mr. SPOONER presented a petition of the Termaat & Monahan Company, of Oshkosh, Wis., and a petition of the Fond du Lac Table Manufacturing Company, of Fond du Lac, Wis., praying for the enactment of legislation to amend the laws governing the distillation of alcohol; which were referred to the Committee on Finance.

Mr. OVERMAN presented a petition of George W. Gahagan Post No. 38, Department of Virginia and North Carolina, Grand Army of the Republic, of Marshall, N. C., praying for the enactment of legislation providing for the establishment of a national cemetery at that city; which was referred to the Committee on Military Affairs.

Mr. LODGE presented a petition of the Pacific Mills Company, of Lawrence, Mass., and a petition of the Jewett Piano Company, of Leominster, Mass., praying for the adoption of certain amendments to the present denatured-alcohol law; which were referred to the Committee on Finance.

He also presented the petition of Walter M. Lindsay, of the State of Massachusetts, praying for the enactment of legislation for the relief of Joseph V. Cunningham and other officers of the Philippine volunteers; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. SCOTT, from the Committee on Military Affairs, to whom was referred the bill (H. R. 3507) to correct the military record of George H. Keating, reported it without amendment.

He also, from the Committee on Public Buildings and Grounds, to whom the subject was referred, reported an amendment proposing to increase the limit of cost of the custom-house at San Francisco, Cal., by $250,000, etc., intended to be proposed to the general deficiency bill, submitted a report thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. FLINT, from the Committee on Public Lands, to whom was referred the bill (S. 8117) to create the Calaveras Bigtree National Forest, and for other purposes, reported it without amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (H. R. 24640) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1908, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. DILLINGHAM, from the Committee on Immigration, to whom was referred the bill (S. 8327) to provide for the establishment of an immigration station at Galveston, in the State of Texas, and the erection in said city on a site to be selected for said station of a public building, reported it without amendment, and submitted a report thereon.

Mr. WARREN, from the Committee on Military Affairs, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 8301) for the reimbursement of certain sums of money to certain enlisted men of the Philippine Scouts; and

A bill (H. R. 15197) to correct the military record of Arthur W. White.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (H. R. 3356) to correct the military record of Timothy Lyons, reported it with an amendment, and submitted a report thereon.

Mr. TALIAFERRO (for Mr. CARMACK), from the Committee on Pensions, to whom was referred the bill (H. R. 23367) granting an increase of pension to Asa A. Gardner, reported it with an amendment, and submitted a report thereon.

Mr. LA FOLLETTE, from the Committee on Indian Affairs, to whom was referred the bill (S. 8431) to authorize the cutting and sale of timber on land reserved for the use of the Menominee tribe of Indians, in the State of Wisconsin, reported it with an amendment, and submitted a report thereon.

COLUMBIA INDIAN RESERVATION LANDS.

Mr. FULTON. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 25550) confirming entries and applications under section 2306 of the Revised Statutes of the United States for lands embraced in what was formerly the Columbia Indian Reservation, in the State of Washington, to report it favorably without amendment, and I submit a report thereon.

I ask unanimous consent for the consideration of the bill. It is a short bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. LA FOLLETTE. I ask the Senator from Oregon to explain the bill somewhat. What is the scope of it? What lands are covered, and how much land?

Mr. FULTON. The bill applies simply to about eleven hundred acres of land in an Indian reservation which was thrown open to settlement some years ago—in 1884, I think. The Department construed for a while that additional soldiers' homestead entries might be made upon it under the law, and subsequently held that they might not be made. That left a lot of entries that had been made and which are being held up at the Department. The Department now recommends that this legislation be had.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WATER RESOURCES IN THE UNITED STATES.

Mr. FLINT. I am directed by the Committee on the Geological Survey, to whom was referred the bill (S. 7359) to provide for the investigation of the water resources in the United States, to report it favorably with amendments, and I submit a report thereon.

I ask unanimous consent for the immediate consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment was, on page 1, line 6, after the words "United States," to insert the words "and Territories;" so as to make the bill read:

Be it enacted, etc., That the Director of the United States Geological Survey is hereby authorized and directed, in continuation of the work authorized by existing law, to investigate and report upon the water resources in the United States and Territories, both on the surface and underground, including the amount of water available, and its quality and fitness for use in public supplies and manufacturing processes, especially those engaged in by the United States; also the damage to said water resources upon interstate streams arising from sewage and industrial pollution; also the determination of the amount of water afforded by the drainage areas of interstate and navigable rivers for purposes of water-supply development.

The amendment was agreed to.

The next amendment was to add at the end of the bill a new section, as follows:

SEC. 2. That the Secretary of the Interior may authorize the Director of the United States Geological Survey to accept the cooperation of such of the several States as may request it in the execution of the hydrographic and other surveys under his direction: *Provided*, That such States shall agree to expend on these surveys sums equal to those expended by the Director of the United States Geological Survey: *Provided further*, That the work shall be done under the supervision of the Director of the United States Geological Survey.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the investigation of the water resources in the United States and Territories."

Mr. HEMENWAY subsequently said: I move to reconsider the vote by which the Senate ordered to be engrossed, read a third time, and passed the bill (S. 7359) to provide for the investigation of the water resources in the United States.

The motion to reconsider was agreed to.

Mr. HEMENWAY. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate resumed the consideration of the bill.

Mr. HEMENWAY. I offer the amendment which I send to the desk.

The SECRETARY. It is proposed to add after the words "Geological Survey," at the end of the bill, a colon and the following:

Provided, That the Secretary of the Interior is hereby authorized to accept for use in connection with the investigation of fuels and structural and other mineral materials, as ordered by Congress, any grounds, buildings, equipment, material, or funds for cooperative work; and the same may be used under such regulations as he may prescribe.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OTIS C. MOONEY.

Mr. LODGE. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 7431) to correct the military record of Otis C. Mooney, to report it without amendment, and I submit a report thereon. I call the attention of the Senator from New Hampshire [Mr. GALLINGER] to the bill.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of War to correct the military record of Otis C. Mooney, late private of Company K, Eighth Vermont Infantry Volunteers, and grant him an honorable discharge as of date May 18, 1864, but no pay, bounty, or other allowances shall become due and payable by reason of the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT SIOUX FALLS, S. DAK.

Mr. SCOTT. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7269) for the erection of an addition or extension to the post-office and courthouse at Sioux Falls, S. Dak., to report it favorably with an amendment, and I submit a report thereon.

I call the attention of the Senator from South Dakota [Mr. KITTREDGE] to this report.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill just reported.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was, in line 10, before "thousand," to strike out "fifty" and insert "seventy;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, such additional land as he may deem necessary, and to cause to be erected an addition or extension to the post-office and courthouse at Sioux Falls, S. Dak., for the use and accommodation of the Government offices, the cost of such additional land and extension or addition not to exceed $170,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS L. HEWITT.

Mr. McCUMBER. I am directed by the Committee on Pensions, to whom was referred the bill (S. 8469) granting an increase of pension to Thomas L. Hewitt, to report it favorably without amendment, and I submit a report thereon. I ask for the immediate consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas L. Hewitt, late of Company A, First Regiment Wisconsin Volunteer Cavalry, and to pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARGARET BABER.

Mr. McCUMBER. I am directed by the Committee on Pensions, to whom was referred the bill (S. 8456) granting an increase of pension to Margaret Baber, to report it favorably without amendment, and I submit a report thereon. I ask that the bill be put on its passage.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Margaret Baber, widow of William Baber, late of Company B, Second Regiment Missouri Volunteer Mounted Infantry, war with Mexico, and to pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OVERTON E. HARRIS.

Mr. McCUMBER. I am directed by the Committee on Pensions, to whom was referred the bill (S. 8422) granting an increase of pension to Overton E. Harris, to report it favorably with amendments, and I submit a report thereon. I ask for the consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The amendments were, in line 6, after the word "late," to strike out "of" and insert "second lieutenant;" in line 7 to strike out the first word, "Missouri," and after the word "Enrolled," in the same line, to insert "Missouri;" and in line 8, before the word "dollars," to strike out "forty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Overton E. Harris, late second lieutenant Company A, First Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PATRICK CONLIN.

Mr. WARNER. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. 22367) for the relief of Patrick Conlin, to report it without amendment, and I submit a report thereon. I invite the attention of the senior Senator from Kansas [Mr. LONG] to the bill.

Mr. LONG. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place the name of Patrick Conlin on the records as a member of Company I, Fifty-seventh Regiment Ohio Volunteer Infantry, and to grant him an honorable discharge, to date from September 1, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COMMUTATION OF HOMESTEAD ENTRIES.

Mr. HANSBROUGH. I am directed by the Committee on Public Lands, to whom was referred the bill (S. 7496) relating to commutations of homestead entries and to confirm such entries when commutation proofs were received by local land officers prematurely, to report it favorably without amendment, and I submit a report thereon. I ask for the present consideration of the bill.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the consideration of the bill?

Mr. HEYBURN. I should like to hear some explanation of it. I do not rise to object.

Mr. HANSBROUGH. I do not understand that the Senator from Idaho objects to its consideration.

Mr. HEYBURN. No.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HEYBURN. I rose to ask that some explanation of the bill might be given by the Senator reporting it.

Mr. HANSBROUGH. The purpose of the bill is to correct a very drastic order issued by the Secretary of the Interior, and which has worked great hardship upon many homesteaders throughout the country. It is unanimously reported by the Committee on Public Lands. There ought not, under all the conditions surrounding the case, to be any objection to the bill. It should become a law as quickly as possible.

Mr. SPOONER. I ask that the bill be again read.

The Secretary again read the bill.

Mr. HEYBURN. I desire to offer an amendment to the bill before it is put upon its final passage, so that it will include mining claims for which the final receipt has been issued. There are a large number of them tied up under exactly the same circumstances as those surrounding agricultural claims. It will take but a moment. I move to amend the bill, in line 6, by inserting, after the words "homestead laws," the words "or mining laws."

The VICE-PRESIDENT. The Senator from Idaho proposes an amendment, which will be stated.

The SECRETARY. In line 6, after the word "laws," insert the words "or mining laws."

The amendment was agreed to.

Mr. SPOONER. I wish to ask the Senator reporting the bill what change the bill makes in the existing law?

Mr. HANSBROUGH. It makes no change whatever in existing law. It merely corrects, as I said a while ago, a drastic order issued by the Secretary of the Interior, and which, I think, as other members of the Committee on Public Lands think, was retroactive. It makes no change whatever in existing law.

Mr. SPOONER. This is an important bill, Mr. President, and I am only asking for information in regard to it. The Senator from North Dakota says it makes no change in existing law. I should like a word of explanation of this phrase in the bill:

> And that no other reason why the title should not vest in the entryman exists except that the commutation was made upon a showing of less than fourteen months' continuous residence upon the land, and that there was at least eight months' actual residence in good faith by the homestead entryman on the land prior to such commutation—

Does not that change existing law?

Mr. HANSBROUGH. That does not change existing law.

Mr. SPOONER. How much residence is required under existing law?

Mr. HANSBROUGH. Fourteen months' commutation.

Mr. SPOONER. Does it not validate and provide for the issuance of a patent where in cases heretofore occurring there have been only eight months' residence?

Mr. HANSBROUGH. It does, because the Department erroneously held that six months of the fourteen might be constructive residence, and eight months actual residence. The order which the bill is intended to correct was issued while hundreds and perhaps thousands of homesteaders were making their proofs and had received their certificates. It affects proofs already made and certificates issued. So it does not change existing law.

Mr. SPOONER. Is it the object of the bill to repeal the Executive order recently made?

Mr. HANSBROUGH. Not at all. It does not touch the Executive order of January 25.

Mr. SPOONER. Did not that conflict with the order theretofore made by the Secretary of the Interior?

Mr. HANSBROUGH. I think not. I think that was a separate proposition. It affected all classes.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Minnesota?

Mr. HANSBROUGH. I yield to the Senator.

Mr. NELSON. I simply rose to explain the matter to the Senator from Wisconsin, but if he is satisfied I have no desire to take up any time.

Mr. SPOONER. I am satisfied that it is an important bill, and I am equally satisfied that I do not know much about it. I would be glad to have the Senator's views upon it.

Mr. NELSON. The necessity of the bill arises out of these facts. Under the homestead law a man can commute. There are two ways in which he can make his final entry. He can commute at the end of fourteen months after making his first entry and furnishing proof of settlement and cultivation up to that time, and pay cash for the land, a dollar and a quarter an acre, or he can remain on it five years and secure his final entry without paying anything.

Under the homestead law I may say that a homesteader has six months after making the first entry within which to go on the land and make a settlement. That is, the law gives him six months. Under the first ruling of the Interior Department they held that the fourteen months given for commutation should include those first six months; in other words, that a man need not make his settlement until the last day of the six months, and then if he resided eight months more, making fourteen months on the entry, he could then commute. They afterwards changed that ruling, and to my mind changed it properly, holding that a man should reside actually fourteen months before he could commute.

It is because of the entries that were made under the first ruling that it is necessary to pass this bill to cure it. It simply cures it by allowing the men who made the entries in good faith under the ruling of the Interior Department or of the Land Office to commute, and allows them to get their patents.

Mr. HANSBROUGH. And they also received their certificates.

Mr. NELSON. The final proof has been made and they have their certificates. So it is the mere issuing of the patent.

Mr. SPOONER. I think that makes it good.

Mr. BERRY. The bill is all right.

The bill was reported to the Senate as amended.

Mr. SPOONER. Does the explanation apply at all to the mineral claims?

Mr. NELSON. No, sir; it does not apply to those. It simply applies to commuted homestead entries.

Mr. SPOONER. How does the proposition as to mining claims become germane then to the bill?

Mr. NELSON. It does not affect it, because they are not made under the homestead laws. They are made under a different law.

Mr. HANSBROUGH (to Mr. NELSON). The Senator from Idaho [Mr. HEYBURN] secured the adoption of an amendment applying to mining claims.

Mr. SPOONER. How can it apply to mining claims?

Mr. NELSON. It did not under the original law. I do not know as to the amendment the Senator from Idaho has injected into the bill. My attention was not called to it. I am speaking about the bill as it was reported from the committee. In my opinion, mining claims ought not to be included in this law.

Mr. HEYBURN. Mr. President, my purpose in proposing the amendment was more to bring the bill up for deliberate consideration than anything else.

Mr. LODGE. Mr. President, I rise to a question of order. If there is to be a deliberate consideration of the bill, it seems to me that this is not the time for it. The Senator from Penn-

sylvania [Mr. KNOX] has given notice of a speech this morning; the conference reports on the immigration bill and the agricultural appropriation bill are both pressing, as well as other important matters. If the debate is to continue, I ask for the regular order.

Mr. HEYBURN. I understand that the Senate has deliberately taken up the consideration of the bill.

The VICE-PRESIDENT. The bill was taken up subject to objection.

Mr. LODGE. I ask for the regular order.

The VICE-PRESIDENT. The regular order is demanded, and the bill goes to the Calendar.

Mr. BERRY. I wish to enter a motion to reconsider the vote by which the amendment of the Senator from Idaho to the bill was adopted.

The VICE-PRESIDENT. The Chair does not understand that the Senator from Arkansas wishes present action upon the motion.

Mr. BERRY. No; I do not ask for present action. I simply want to enter the motion so that the right to make it will not be lost.

ROBERT B. TUBBS.

Mr. OVERMAN. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. 11153) to correct the military record of Robert B. Tubbs, to report it favorably with an amendment, and I submit a report thereon.

Mr. BURROWS. That is a very brief bill, and I ask for its present consideration.

Mr. HALE. After the suggestion made by the Senator from Massachusetts, I do not think we ought to proceed to the consideration of any bill during the morning hour.

Mr. BURROWS. I hope if that practice is to prevail that we shall have the regular order every morning and let us go ahead without any unanimous consents. This is a very brief measure, and I hope it may be considered at the present time.

Mr. HALE. The Senator from Massachusetts has called attention to the crowded condition of to-day's business and that the Senator from Pennsylvania is to submit some remarks to the Senate on an important matter. He has been waiting nearly an hour. I do not think under the circumstances we ought to proceed to the consideration or discussion of further bills. After this bill is disposed of I shall call for the regular order.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill reported by the Senator from North Carolina?

There being no objection, the bill was considered as in Committee of the Whole. It directs the Secretary of War to grant an honorable discharge to Robert B. Tubbs, late a lieutenant of Company I, Eighth Michigan Cavalry Volunteers, to date August 22, 1863.

The amendment of the committee was to add at the end of the bill the following proviso:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS INTRODUCED.

Mr. DILLINGHAM introduced a bill (S. 8470) granting an increase of pension to James Kavanagh; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BURNHAM introduced a bill (S. 8471) for the relief of Marcus D. Wright, executor of the last will and testament of Thomas G. Wright, and the heirs at law of said Thomas G. Wright; which was read twice by its title, and referred to the Committee on Claims.

Mr. BERRY (by request) introduced a bill (S. 8472) for the relief of the estate of J. H. Moseby, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARNER introduced a bill (S. 8473) granting an increase of pension to Lindsay Murdoch; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CURTIS introduced a bill (S. 8474) removing restrictions upon the alienations of certain lands in the Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. NIXON introduced a bill (S. 8475) to remove the charge of desertion from the military record of Henry Bain; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 8476) for the relief of W. H. Minor; which was read twice by its title, and referred to the Committee on Claims.

Mr. TALIAFERRO introduced a bill (S. 8477) granting a pension to Georgiana Walker; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. RAYNER introduced a bill (S. 8478) granting a pension to Eliza Hood; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 8479) for the relief of the heirs and representatives of Thomas J. Benson;

A bill (S. 8480) for the relief of the heirs and representatives of William G. Burke, deceased;

A bill (S. 8481) for the relief of Nellie Lane; and

A bill (S. 8482) for the relief of the heirs of Washington Dorney.

Mr. RAYNER introduced a bill (S. 8483) authorizing the President of the United States to nominate Joseph C. Byron, late a captain and assistant quartermaster, to be a captain and assistant quartermaster on the retired list; which was read twice by its title, and referred to the Committee on Militray Affairs.

Mr. CARMACK introduced a bill (S. 8484) for the relief of the University of Nashville, of Nashville, Tenn.; which was read twice by its title, and referred to the Committee on Claims.

Mr. SPOONER (for Mr. CARMACK) introduced a bill (S. 8485) granting an increase of pension to Ann Hudson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. WHYTE introduced a bill (S. 8486) to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. DICK introduced a bill (S. 8487) amending "An act granting pensions to certain enlisted men, soldiers, and officers who served in the civil war and the war with Mexico," approved February 6, 1907; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. McLAURIN submitted an amendment intended to be proposed by him to the river and harbor appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. CULBERSON submitted an amendment relative to the rank and pay of retired officers of the Navy engaged in active duty after retirement, etc., intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. BEVERIDGE submitted an amendment authorizing the Secretary of Agriculture to prescribe and fix reasonable fees for the inspection and examination of cattle, sheep, swine, and goats and meat and meat-food products thereof, etc., intended to be proposed by him to the agricultural appropriation bill; which was ordered to lie on the table, and be printed.

He also submitted an amendment relative to the date of the inspection and packing or canning of foods and meats, intended to be proposed by him to the agricultural appropriation bill; which was ordered to lie on the table, and be printed.

Mr. HANSBROUGH submitted an amendment relative to the inspection of any food carcasses and any or all parts thereof of such animals after having been duly inspected as provided for by law, etc., intended to be proposed by him to the agricultural appropriation bill; which was ordered to lie on the table, and be printed.

THE SENATE MANUAL.

Mr. SPOONER. I ask that the following order be adopted.

The order was read, as follows:

Ordered, That the Committee on Rules is instructed to prepare a new edition of the Senate Manual, and that there be printed 2,500 copies of the same for the use of the committee.

Mr. CULBERSON. A resolution was introduced the other day by myself and referred to the Committee on Rules to the effect that the report prepared by Mr. Cleaves on the subject of conference reports should be added to the Senate Manual. I will ask the Senator if any action has been taken by the Committee on Rules upon that resolution?

Mr. SPOONER. That resolution will be reported. Of course it does not conflict at all with this order.

Mr. CULBERSON. I understand, but there being a new print of the Manual ordered, I thought it would be very well to consider that matter now.

Mr. SPOONER. I am in favor of the Senator's resolution, and I do not know of any opposition to it.

The VICE-PRESIDENT. The question is on agreeing to the order submitted by the Senator from Wisconsin.

The order was agreed to.

STANDING RULES OF THE SENATE.

On motion of Mr. SPOONER, it was

Ordered, That 500 copies of the Standing Rules of the Senate, with Index, together with rules for the regulation of the Senate wing of the Capitol, adopted by the Committee on Rules, be printed and bound in paper covers for the use of the Senate.

SPECIAL EMPLOYEES OF INTERSTATE COMMERCE COMMISSION.

Mr. TILLMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the heads of the Departments and the Interstate Commerce Commission in replying to the resolution of the Senate of February 8 be directed to report the names and compensation of all persons who may have been employed between June 30, 1906, and February 1, 1907, but who were not employed on the latter date.

DAVID C. JOHNSTON.

Mr. McCUMBER. I move to reconsider the vote by which the Senate passed last evening the bill (H. R. 3002) granting an increase of pension to David C. Johnston.

The motion to reconsider was agreed to.

Mr. McCUMBER submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 3002) granting an increase of pension to David C. Johnston.

JOHN W. M'WILLIAMS.

Mr. McCUMBER submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 5854) granting an increase of pension to John W. McWilliams, the beneficiary being dead.

INDIAN TRIBAL FUNDS.

Mr. CLAPP. I move that the bill (H. R. 5290) providing for the allotment and distribution of Indian tribal funds, which is now on the Calendar, be recommitted to the Committee on Indian Affairs.

The motion was agreed to.

SENATOR FROM UTAH.

The VICE-PRESIDENT. The morning business is closed, and the Senator from Pennsylvania [Mr. KNOX] is recognized.

Mr. DILLINGHAM. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont rise to morning business?

Mr. DILLINGHAM. No, Mr. President. I merely wish to say that, at the conclusion of the remarks of the Senator from Pennsylvania, I shall ask the Senate to proceed to the consideration of the conference report on the immigration bill.

Mr. KNOX. Mr. President, I ask that the resolution in relation to the right of the Senator from Utah [Mr. SMOOT] to a seat in the Senate may be read.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read the resolution reported from the Committee on Privileges and Elections, June 11, 1906, as follows:

Resolved, That REED SMOOT is not entitled to a seat as a Senator of the United States from the State of Utah.

Mr. KNOX. Mr. President, the Territory of Utah was admitted as a State by proclamation of the President on January 4, 1896 (29 Stat. L., 876), that Territory having, by the adoption of its constitution of November 5, 1895, fully complied with the terms of the enabling act of July 16, 1894 (28 Stat. L., 107). This enabling act stated the terms upon which Utah would be admitted into the Union.

Congress by this act authorized the admission of Utah on condition that its convention should pass an "ordinance irrevocable without the consent of the United States and the people of said State," providing, "first, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship: *Provided*, That polygamous or plural marriages are forever prohibited."

This was the agreement between the people of the Territory of Utah and the United States, the condition upon which, for their mutual benefit, the State was admitted.

It constitutes a compact concerning the Mormon question in Utah. The Mormons were to forever prohibit the making of plural marriages. Otherwise they were not to be disturbed about their religion. Fetters on their minds were not sought to be imposed. The destruction of their existing families was not required.

Utah was admitted on equal terms with the other States, since by reason of the Constitution it had to be. She is entitled inter alia to representation in the Senate. If any valid condition was imposed upon her, it was the irrevocable ordinance providing for perfect toleration of religious sentiment and prohibiting polygamous marriages.

Senator SMOOT was regularly elected to represent the equal State of Utah in the Senate. The Senate is now asked to expel him and deprive the State of one of its votes arbitrarily. Can it do so? Certainly it has the power, but only as Congress has power to refuse all appropriations or the Senate to ratify all treaties or confirm all appointees.

Utah has not the power to maintain its right to representation, but this fact adds to the necessity of the Senate proceeding dispassionately and judicially when the right of a State to its senatorial choice is challenged. If it were otherwise, the States would be nothing more than nominating powers, and the Senate would merely confirm or refuse to confirm such nominations. This is not the proper office of the Senate.

But should the Senate expel Senator SMOOT, and why? He should not be expelled for believing in the Mormon religion. The irrevocable ordinance expressly, and with Mormonism in view, guaranteed religious toleration in the State of Utah. He should not be expelled for being a member or officer of the Mormon Church for the same reason. He should not be expelled for the vindication of Utah's law, violated by certain Mormons continuing polygamous relations with Senator SMOOT's consent or approval—supposing he did consent or approve—for Utah, without being ignorant of the facts, elected him, and the Senate would not be justified in going out of its way to enforce respect for the formerly expressed will of Utah embodied in its law against polygamous relations by defeating its later expressed will shown in its electing SMOOT.

For what, then, should he be expelled and Utah be deprived of a Senatorial vote?

Is it for his violating or consenting to or approving the violation of Federal law?

There is no Federal law against polygamy or polygamous relations applicable to Utah, now that Utah is a State, and when she was admitted to the Union of States it was known that there would and could be none.

Why, then, I repeat, should the Senate expel Senator SMOOT?

Because, first, it is claimed he is wicked in this, that some of his friends, having cohabited with several women before Utah became a State, are continuing to do so until death, and that he approves of them as officers of a church which does not chastise them for so doing; and, second, because he is a Mormon, and the Mormon Church is a hierarchy disloyal to our institutions, whose will he is bound to obey.

Mr. President, the Constitution provides that the Senate shall be the judge of the qualifications of its members; a majority of the Senate can determine whether or not a Senator possesses them. The Constitution also provides that the Senate may, with the concurrence of two-thirds, expel a member.

I have intentionally referred to the proposed action against Senator SMOOT as expulsion. I do not think the Senate will seriously consider that any question is involved except one of expulsion, requiring a two-thirds vote. There is no question as to Senator SMOOT possessing the qualifications prescribed by the Constitution, and therefore we can not deprive him of his seat by a majority vote. He was at the time of his election over 30 years of age and had been nine years a citizen of the United States, and when elected was an inhabitant of Utah. These are the only qualifications named in the Constitution, and it is not in our power to say to the States, "These are not enough; we require other qualifications," or to say that we can not trust the judgment of States in the selection of Senators, and we therefore insist upon the right to disapprove them for any reason.

This claim of right to disapprove is not even subject to any rule of the Senate specifying additional qualifications of which the States have notice at the time of selecting their Senators, but it is said to be absolute in each case as it arises, uncontrolled by any canon or theory whatever.

Anyone who takes the trouble to examine the history of the clause of the Constitution as to the qualification of Senators must admit that it was the result of a compromise. The contention that the States should be the sole judges of the qualifications and character of their representatives in the Senate was acceded to with this limitation: A Senator must be 30 years of age, nine years a citizen of the United States, and an inhabitant of the State from which he is chosen. Subject to

these limitations imposed by the Constitution, the States are left untrammeled in their right to choose their Senators. The constitutional provision secures a measure of maturity in counsel, and at least a presumption of interest in the welfare of the Nation and State.

By another provision—namely, that relating to expulsion—the Constitution enables the Senate to protect itself against improper characters by expelling them by a two-thirds vote if they are guilty of crime, offensive immorality, disloyalty, or gross impropriety during their term of service.

I specify these reasons because I can not imagine the Senate expelling a member for a cause not falling within one of them.

Mr. President, I would be false to the traditions of my State, forgetful of her history and the relations she has sustained to the birth, development, and defense of the National Government, if I failed to raise my voice in protest against an encroachment upon the rights reserved to the States when she so promptly, unconditionally, and unreservedly ratified the Constitution of the United States.

As Pennsylvania was first to take steps to approve the Constitution, so I pray she will be the last to acquiesce in the invasion of rights involved in this heresy of Senatorial power to add to the constitutional qualifications of Senators and kindred modern heresies of constitutional construction.

The perfection of human liberty under law will only be attained under the American Constitution when each of the dual sovereignties within its sphere exerts its powers to the utmost limits for the public weal; when the States and the artificial bodies they have created cease to deny and resist the rightful and full exercise of the national power over national affairs; when there are no attempts to encroach upon the undeniable reserved powers of the States for the aggrandizement of national power; when the people discriminate betwen wise policies designed to meet the imperative needs of modern conditions and demagogic assaults upon the foundations of the Republic for political or personal purposes; when the people shall not be vexed by unnecessary legislation about their daily affairs, and normal conditions are undisturbed by ceaseless agitations—agitations fomented by ignorance and insincerity and misrepresenting those just and constitutional policies of the time which had a due beginning, have a reason for their existence, and shall have a due ending when their work is accomplished.

Mr. President, I know no tenet in the new propaganda of constitutional construction that begins to contain the danger to our country involved in the contention that a Senator of the United States may be deprived of his seat whenever the majority of the Senate concludes that there are doctrines taught, or have been taught in the past, by some church organization to which he belongs which that majority believes to be, or have been, dangerous.

It is an easy step after the first one is taken, because of a man's religion, to take the next and logical one of exclusion because of a man's politics, and then because of his notions upon economics, and then because of his attitude toward certain legislation. Identically the same argument can be made mutatis mutandis in support of the Senate's power in all these instances as is now advanced, namely, our duty to guard and protect the Senate from the contagion of false doctrine.

I know of no defect in the plain rule of the Constitution for which I am contending. I know of no case it does not reach. I can not see that any danger to the Senate lies in the fact that an improper character can not be expelled without a two-thirds vote. It requires the unanimous vote of a jury to convict a man accused of crime; it should require, and I believe that it does require, a two-thirds vote to eject a Senator from his position of honor and power, to which he has been elected by a sovereign State.

The simple constitutional requirements of qualification do not in any way involve the moral quality of the man; they relate to facts outside the realm of ethical consideration and are requirements of fact easily established. Properly enough, therefore, as no sectional, partisan, or religious feeling could attach itself to an issue as to whether or not a man is 30 years of age, had been a citizen of the United States and an inhabitant of a State for the periods prescribed, the decision as to their existence rests with a majority of the Senate. When, however, a different issue is raised, dehors the Constitution, upon allegations of unfitness, challenging the moral character of a Senator, involving a review of questions considered and settled in the Senator's favor by the action of his State in electing him, then the situation is wholly changed and a different function is to be performed by the Senate, calling for its proper exercise the highest delicacy and discretion in reviewing the action of another sovereignty.

If I were asked to state concisely the true theory of the Constitution upon this important point, I would unhesitatingly say:

First. That the Constitution undertakes to prescribe no moral or mental qualification, and in respect to such qualifications as it does prescribe the Senate by a majority vote shall judge of their existence in each case, whether the question is raised before or after the Senator has taken his seat.

Second. That as to all matters affecting a man's moral or mental fitness the States are to be the judges in the first instance, subject, however, to the power of the Senate to reverse their judgment by a two-thirds vote of expulsion when an offense or an offensive status extends into the period of Senatorial service, and such a question can only be made after the Senator has taken his seat.

If to this it is objected that it contemplates admitting a man who may be immediately expelled, I reply that it is hardly proper to adopt a rule of constitutional construction and Senatorial action based upon the theory that the States will send criminals or idiots to the Senate. Besides, it does not seem to me to be conceding much to a State, after it has deliberately and solemnly elected a Senator after the fullest consideration of his merits, to concede on the first blush of the business the State's intelligent and honorable conduct by allowing its chosen representative admission to the body to which he is accredited.

Small wonder, Mr. President, that Mr. Justice Brewer, of the Supreme Court of the United States, speaking as recently as August, 1906, to the Virginia Bar Association at Hot Springs, Va., after reviewing some of the current heresies of the day in regard to the Constitution and specifying some of the instances in which they were sought to be applied, remarked:

> The Constitution says that no person shall be a Senator of the United States who is not 30 years of age, nine years a citizen of the United States, and when elected an inhabitant of the State for which he shall be chosen. Now, the contention is that although these are the only qualifications named in the Constitution the Senate can attach other and different qualifications.

This which follows turns to another point, but I read it because I want to draw his conclusion:

> Because a manufacturer may intend to dispose of some of his products in interstate traffic it is said that Congress has the right to supervise the entire action of his manufacturing establishment. Inasmuch as it is difficult to draw the line in our great industries between that commerce which is wholly within the State and that which is carried on between the States, the contention is that Congress may take control of the entire industry, the greater power of the nation swallowing up the smaller power of the States. I might go on and enumerate many other illustrations, but these serve my purpose.
>
> Is there not danger in this tendency, and may we not wisely consider whether it ought not to be stayed?

As regards Senator SMOOT, all have agreed that he is a man of unblemished character, possessing every constitutional qualification as a Senator of the United States. What, then, is the charge against him?

Mr. BURROWS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Michigan?

Mr. KNOX. I do.

Mr. BURROWS. I understand the contention of the Senator from Pennsylvania to be that a sitting member of this body 30 years of age, nine years a citizen of the United States, and an inhabitant of the State from which he is chosen can not be dispossessed of his seat except by expulsion, which requires a two-thirds vote. Am I correct?

Mr. KNOX. The Senator from Michigan has my theory exactly, unless there is some want of constitutional qualification or some irregularity in his election.

We may as well go to the root of the matter at once. It is only this: He is a member and officer of the Mormon Church—nothing more. There is no other charge brought against him. All other charges are included in or grew out of the fact that he is a Mormon and one of the advisory counsel to the presidency of that church. Clearly, that in itself can not disqualify him in this Government, where, as Mr. Justice Story said:

> The Catholic and the Protestant, the Calvinist and the Arminian, the Jew and the infidel may sit down at the common table of the national councils without any inquisition into their faith or mode of worship.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Texas?

Mr. KNOX. I do.

Mr. CULBERSON. I simply desire to ask the Senator a question for information. He states that the only charge against the Senator from Utah is that he is a member of the Mormon Church. I read a few questions and answers at page 248 of volume 5 of the hearings before the Committee on Privileges and Elections:

> Senator OVERMAN. You think the laws of God are superior to the laws of man?
>
> Senator SMOOT. I think the laws of God, upon the conscience of man, are superior. I do, Mr. Senator.

Senator OVERMAN. You think the laws of God, as revealed to Joseph Smith and accepted by the church, would be binding upon the members of the church superior to the laws of the land?

Senator SMOOT. I think it would be binding upon Joseph Smith.

Senator OVERMAN. Well?

Senator SMOOT. And I think if a revelation were given to me, and I knew it was from God, that that law of God would be more binding upon me, possibly, than a law of the land, and I would have to do what God told me, if I was a Christian.

Senator OVERMAN. I speak of a law——

Senator SMOOT. But I want to say this, Mr. Senator. I would want to know, and to know positively, that it was a revelation from God.

Senator OVERMAN. I was not speaking——

Senator SMOOT. And then I would further state this, that if it conflicted with the law of my country in which I lived, I would go to some other country where it would not conflict.

I read that, Mr. President, for the purpose of inquiring of the Senator, to whose speech I am listening with great interest, whether there is not a charge against the Senator from Utah that he holds the law of revelation in temporal affairs superior to the law of the land?

Mr. KNOX. Mr. President, the statement I made is that all of the other charges are collateral and grow out of the charge that Senator SMOOT is a Mormon; and I propose, before I finish, to run into every one of those collateral charges, including the one to which the Senator from Texas has referred in the testimony he has just read. There is a specific charge, as I have already stated, that the Mormon Church is a hierarchy, or rather a theocracy, because a hierarchy is no offense. Every church that has a priesthood and bishops has what may be called a "hierarchy;" but hierarchy deals only with spiritual dominion, while a theocracy—and that is what it is charged that this church is—as we all know, is one where the priests having political power claimed direction from on high. But I will come to every one of those questions in due time, if the Senator will permit me to pass on in my own way.

It is said, however, that the Mormon Church is a theocracy, a hierarchy, a government of priests claiming to rule by divine authority in matters temporal as well as spiritual, whom all its adherents must obey absolutely, even to the disregard of the laws of the land, if they should conflict with each other; that every Mormon's allegiance is first to his church and secondly to his country; that the kingdom of God, as it is termed, is the only legal government that can exist in any part of the universe, and that all other governments are illegal and unauthorized; and that Senator SMOOT, being a member and an officer of this organization, is dominated thereby and would yield obedience to the dictates of his church rather than to the laws of the land, and therefore is not and can not be a loyal citizen of the United States, and consequently is not qualified to sit as a Senator of the United States.

I think my recital of the charges covers exactly what the Senator from Texas suggested by his question.

One thing must be borne in mind in connection with these claims, and that is that we are to take into account only what the Mormon Church is teaching and practicing to-day and not what it taught and did twenty to fifty years ago.

Now, is it true that Mormons must absolutely obey the church even to the disregard of the law of the land; that a Mormon's allegiance is first to his church and secondly to his country, and that as a Senator Mr. SMOOT would obey the dictates of his church rather than the laws of the land?

I inquire again, is this true? For if it is, Senator SMOOT should be expelled for disloyalty to his country, established by the fact of a higher allegiance.

Of course, Mr. President, no one is unreasonable enough to ask the Senate to assume these charges to be true or to ask us to deprive Utah of her Senatorial choice unless they are proven to be true.

It would seem in respect of charges of this nature that they could be easily and overwhelmingly proven if true, because of the nature of the offense and the publicity that would be incident to its commission.

If you want to know as to the loyalty of a great number of people organized into an ecclesiastical body, whose doctrines are publicly promulgated and whose actions may be daily witnessed, it seems to me the obvious way to ascertain the truth would be to examine their doctrines and search into their acts. Their teachings and their acts ought to furnish the best evidence of which the case in its nature is susceptible.

It ought to be very easy to ascertain if the Mormon Church requires a member to obey its law rather than the law of the land, and to ascertain if it required a Mormon Senator or other public officer to submit his official judgment to church dictation.

The thing to do in such a case is to examine the doctrines of the church as they are now promulgated, and if you find they teach no such disloyalty as is charged, but quite to the contrary, then, if still dubious, the next step would seem to be to look over the records of the various Mormon officers who have served Utah since her admission as a State and see if such disloyalty can be shown as a fact.

A third step might be taken for the benefit of those who insist upon the utmost suspicion as against absence of any legal proof, and that is to subject each Mormon officer to an inquisition as to his mental state of loyalty.

I propose to submit these charges to all three tests.

Now, how does the Mormon Church treat this duty of loyalty to the country in its published doctrines and revelations?

I find upon an examination of the Articles of Faith of the Mormon Church and its book of doctrines and covenants that the Mormon doctrine relating to human governments and the duties of citizenship is set out in great detail.

I quote church articles of faith, No. 12:

We believe in being subject to kings, presidents, rulers, and magistrates; in obeying, honoring, and sustaining the law.

Also, from the Doctrines and Covenants, pages 483–485, verses 1 to 11:

1. We believe that governments were instituted of God for the benefit of man, and that He holds men accountable for their acts in relation to them, either in making laws or administering them, for the good and safety of society.

I will not read some half dozen other articles of this creed. I will ask, however, that they may be printed in the RECORD as they appear upon my notes.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

2. We believe that no government can exist in peace, except such laws are framed and held inviolate as will secure to each individual the free exercise of conscience, the right and control of property, and the protection of life.

3. We believe that all governments necessarily require civil officers and magistrates to enforce the laws of the same, and that such as will administer the law in equity and justice should be sought for and upheld by the voice of the people (if a republic) or the will of the sovereign.

4. We believe that religion is instituted of God and that men are amenable to Him, and to Him only, for the exercise of it, unless their religious opinions prompt them to infringe upon the rights and liberties of others; but we do not believe that human law has a right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; that the civil magistrate should restrain crime, but never control conscience; should punish guilt, but never suppress the freedom of the soul.

5. We believe that all men are bound to sustain and uphold the respective governments in which they reside, while protected in their inherent and inalienable rights by the laws of such governments; and that sedition and rebellion are unbecoming every citizen thus protected, and should be punished accordingly; and that all governments have a right to enact such laws as in their own judgment are best calculated to secure the public interest; at the same time, however, holding sacred the freedom of conscience.

6. We believe that every man should be honored in his station, rulers and magistrates as such being placed for the protection of the innocent and the punishment of the guilty, and that to the laws all owe respect and deference, as without them peace and harmony would be supplanted by anarchy and terror, human laws being instituted for the express purpose of regulating our interests as individuals and nations, between man and man, and divine laws given of heaven, prescribing rules on spiritual concerns, for faith and worship, both to be answered by man to his Maker.

7. We believe that rulers, states, and governments have a right and are bound to enact laws for the protection of all citizens in the free exercise of their religious belief, but we do not believe that they have a right, in justice, to deprive citizens of this privilege or proscribe them in their opinions so long as a regard and reverence are shown to the laws and such religious opinions do not justify sedition nor conspiracy.

8. We believe that the commission of crime should be punished according to the nature of the offense; that murder, treason, robbery, theft, and the breach of the general peace in all respects should be punished according to their criminality and their tendency to evil among men by the laws of that government in which the offense is committed; and for the public peace and tranquillity all men should step forward and use their ability in bringing offenders against good laws to punishment.

9. We do not believe it just to mingle religious influence with civil government whereby one religious society is fostered and another proscribed in its spiritual privileges and the individual rights of its members as citizens denied.

10. We believe that all religious societies have a right to deal with their members for disorderly conduct according to the rules and regulations of such societies, provided that such dealings be for fellowship and good standing; but we do not believe that any religious society has authority to try men on the right of property or life, to take from them this world's goods, or to put them in jeopardy of either life or limb, neither to inflict any physical punishment upon them; they can only excommunicate them from their society and withdraw from them their fellowship.

Mr. DUBOIS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Idaho?

Mr. KNOX. Certainly.

Mr. DUBOIS. I should like to ask the Senator from Pennsylvania if these doctrines, some of which he has just read and others of which he will print, have always been the doctrines of the church?

Mr. KNOX. I stated a moment ago that it was not my intention to go into the ancient history of the Mormon Church. It is not my intention to go into what the Mormon Church

taught and believed fifty years ago. The question is what it teaches and believes now, and that, in my judgment, is the only thing we have to do with. I have taken these excerpts from the book called "The Doctrines and Covenants," from pages 483 to 485.

Mr. DUBOIS. If the Senator will pardon me, that does not answer my question. I should like to know if these doctrines from the Doctrines and Covenants, which the Senator has just read and others of which he is going to have printed, are the same doctrines which the church has always taught?

Mr. KNOX. I say I do not know, and I say I do not care. It is a matter wholly indifferent. Suppose they taught something wholly different fifty years ago! We are not testing this question by what the ancient Mormons taught or what the ancient Mormons believed or what concerned the ancient Mormons. We are testing it by what applies to REED SMOOT, the man who comes here with the credentials of the State of Utah.

Mr. DUBOIS. I should like to ask the Senator from Pennsylvania if he knows whether these doctrines and covenants, tenets of the church, have been changed?

Mr. KNOX. In reply to that question I will say I know nothing more than that I find what I have read in the Doctrines and Covenants, upon the pages indicated and at the places indicated. If they are not the doctrines and covenants of the Mormon Church, then I am deceived. If they are not the doctrines and covenants of the Mormon Church, I hope the Senator will take the trouble to reply to them in his own time.

Mr. DUBOIS. I do not want to interrupt the Senator from Pennsylvania against his will, but he is quoting the Doctrines and Covenants, and I want to know if they are the same doctrines which they have heretofore taught. In other words, whether there has been any change. All the testimony shows they have not been changed. They are the same now as when promulgated. They are no more and no less binding now than in the past.

Mr. KNOX. I have already answered that question to the best of my ability.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Indiana?

Mr. KNOX. Certainly.

Mr. BEVERIDGE. So far as the religious belief itself is concerned—not acts but beliefs—taking the religious belief alone, I ask the Senator from Pennsylvania, in accordance with the questions asked by the Senator from Idaho, whether in fact we are not forbidden to inquire into a man's religious belief separate from any acts?

Mr. DUBOIS rose.

Mr. BEVERIDGE. I am asking the Senator from Pennsylvania.

Mr. KNOX. Absolutely, and I propose to follow up——

Mr. DUBOIS. Mr. President——

Mr. KNOX. The Senator from Indiana asked me the question.

Mr. BEVERIDGE. I should like the Senator from Pennsylvania to answer it.

Mr. DUBOIS. Mr. President——

Mr. KNOX. I must decline to yield further to the Senator from Idaho, especially as the Senator from Indiana has asked me a question which he insists that I shall answer.

Mr. DUBOIS. He stated my position——

The VICE-PRESIDENT. The Senator from Pennsylvania declines to yield further to the Senator from Idaho.

Mr. KNOX. In answer to the question of the Senator from Indiana, and without the slightest reference to the question of the Senator from Idaho, which I have told the Senator I have answered to the best of my ability again and again, I will say that if the Senate will have patience with me, I will not only show that these are the doctrines and covenants of the Mormon Church, prima facie at least, subject to anyone challenging their authenticity, but I will show specifically by the testimony in this case that they are the doctrines at the present time and are the doctrines held by Senator SMOOT.

Mr. President, it seems to me it would be difficult to draft a creed more nearly antipodal to the teachings of a theocracy than the creed of the Mormon Church I have just read. A theocracy is defined by Webster to be "the exercise of political authority by priests representing the Deity." The creed o the Mormon Church not only disclaims the right to exercise political authority, but enjoins obedience to the authority of the State in all things.

So much, Mr. President, for the first test I proposed to apply, namely, the ascertainment of what the Mormon Church teaches, in reply to the charge that it is a theocracy and teaches obedience to the church, even to the disregard of the law of the land.

Now, let us inquire, as I have proposed, if the practices of the church in this respect have been consistent with its teachings. That is, have Mormon officeholders disregarded the laws of the land and substituted therefor the will of the church. There has not been the suggestion of an attempt to establish any such fact.

But, Mr. President, it is claimed that the head of the Mormon Church may and does at times receive divine revelations in respect of a variety of subjects, and therefore is liable at any moment to receive one enjoining disloyalty to the United States. Suppose he does. None of these revelations are in any way binding upon the church until it has been ratified by a vote of the whole congregation or convention of its members, *and even then it is not binding as against the law of the land.* Senator SMOOT's testimony touching this is very clear. He states that the members of his church are free agents, and that any one of them has the right to disobey any divine revelation given to the head of the church, even though submitted to the church conference and accepted by it; that it is the fundamental and primary law of the Mormon Church that its members must obey the law of the land, and there is a revelation to that effect; and that as between a revelation and the law of the land it is the duty of the members of that church to obey the law of the land; but he did testify that if he himself should receive a revelation commanding him to disobey the law of the land, and if he were sure that God had spoken to him, he would feel the obligation to obey it, but that he would leave the country and go where the law of the land would not conflict. His testimony on this point is as follows (Vol. III, pp. 251–253):

Senator BEVERIDGE. I merely want to continue a question which was put a moment ago, putting it in its simplest possible form. As between the law of the land and any revelation, which is binding upon the members of your church?

Senator SMOOT. What would I do?

Senator BEVERIDGE. No, sir. I did not ask what you would do. I ask you, as an officer of the church, to answer my question. As between a revelation and the law of the land, which is binding upon the members of the church?

Senator SMOOT. The law of the land in which we live.

Senator BEVERIDGE. Do I understand you to say that there is no law, rule, or ordinance of your church by which a revelation from above, even when confirmed by your people, is superior to the law of the land?

Senator SMOOT. I do not think it could be, Senator.

Senator BEVERIDGE. My mind was directed to that very point. It is rather important.

Senator SMOOT. We have a revelation in the doctrines and covenants that it is mandatory upon all members of our church to honor and obey the law of the land.

Senator OVERMAN. Right here——

Senator BEVERIDGE. Pardon me. Suppose a revelation is received, as you described a moment ago it might be, and suppose, in addition to its having been received in that way, it is confirmed, or whatever term you use, by the people, and then that revelation, thus confirmed by the people, is in conflict with the law of the land; which is binding?

Senator SMOOT. The law of the land.

Senator OVERMAN. I understand you to say, if I apprehend your answer correctly, that when a divine revelation is given to the president of the church, is submitted to the church conference, and is accepted by the conference, then, as a free agent, any member of the church has a right to disobey it?

Senator SMOOT. They have, Senator.

Senator KNOX. Senator SMOOT, let me ask you what I consider a question that should have followed Senator BEVERIDGE's question. I understand you, then, that fundamentally and primarily it is a law of the Mormon Church that you must obey the law of the land?

Senator SMOOT. That is correct.

Senator KNOX. If there should be a revelation now that commanded you to disobey the law of the land, that revelation would be in conflict with one of the fundamental principles of your religion?

Senator SMOOT. It would.

Senator KNOX. Is that correct?

Senator SMOOT. That is correct.

Senator KNOX. That is all.

I pause here long enough to observe that this, in connection with the creed I have read, conclusively shows that the Mormon Church is not a theocracy, as the essential fact in a theocracy is that the will of the deity as promulgated by priests is the highest political authority.

Senator FORAKER. I understood you to say that rather than to undertake to obey such a revelation you would leave the country and go where the law of the land would permit obedience to the revelation?

Senator SMOOT. Yes; if God had given it to me himself then I would, because I would feel then that I was under direct obligation to my Maker to carry out what He revealed directly to me, and if I could not do it in this country I would go to some other country where I could.

Mr. TAYLER. So that you would, of course, obey the revelation coming from God?

Senator SMOOT. If I knew that God had spoken to me, I would obey it.

Mr. TAYLER. Suppose the revelation commanded of God was that you should do a certain thing and also stay in the country?

Senator SMOOT. Well, I do not think the God I worship is such a God.

This recital, which reads like a chapter from the Spanish inquisition, contains Senator SMOOT's belief as regards his duty in case of any possible conflict between the law of the land and any revelation which might be received by his church or by himself directly. I quote his testimony because it states the whole case so far as it concerns us. What finer or more accurate

declaration of a man's duty in relation to God, to the church, and to his country could there possibly be? His whole testimony and utterance is of that careful, conscientious, and reverent character, not seeking in any way to shield himself from the just consequences of any of his positions, which must have indelibly impressed upon the minds of everyone who heard him the conviction of the absolute truthfulness and reliability of his answers. He, then, clearly states under oath that he is not bound to obey, and will not obey, any revelation of his church in conflict with the laws of the land. His answer is absolutely conclusive upon this matter. He himself, and he alone, knows the exact state of his mind and his purposes in this regard, and it is this exact state of his mind that is the controlling point. The truthfulness and sincerity of his statements have not been questioned. If they could be questioned without any evidence of overt act or statement on his part to the contrary, then the sincerity of the oath of every Senator present might be similarly questioned. I think this fully meets the requirements of the third test I proposed, to wit, a rigid inquiry into the mental attitude of the individual as to loyalty.

I will not discuss the question as to the particular danger arising from Senator SMOOT's belief that he may receive a direct revelation from God; that he is capable of being in such conscious fellowship with God as to be aware of His presence, or hear His voice, and in that personal relation to receive the wish and command of God, and that for this reason he is constitutionally incapable of being a part of a man-made government. This contention of protestants, which will be found on page 612 of volume 3 of the testimony, in an answer by Mr. Tayler, counsel for protestants, to a question propounded by me, is in my judgment too absurd to demand any serious consideration. Every Christian prays to God for guidance in matters both spiritual and temporal, and particularly in times of perplexity and doubt, and many believe that they receive such guidance.

If the Almighty can not speak to SMOOT, he could not have spoken to Moses or Mahomet or Joseph Smith or Brigham Young, as the case may be, and as people variously believe. I am not prepared to attack the foundations of all religions based on revelation by denying that God has the power to reveal His will to man. I am not prepared to deny that the Omnipotent Creator of the Universe lacks the power to speak to one of His creatures, if such is His will, nor am I disposed to challenge the wisdom of the fathers of this Government who provided that in such matters every man should be protected in his individual belief.

In this country of ours religious belief is not an offense or a defense. A man may believe what he chooses without fear of molestation from the law or deprivation of his civil rights. On the other hand, his religious belief will not avail him as a protection if he violates the law.

Senator SMOOT merely says that he believes *it is possible* that he might receive a revelation. That is all. From the importance placed upon this matter by counsel for protestants one would be led to think that Senator SMOOT had been in the habit of receiving such revelations every day or so. As a matter of fact, he has never received one, and so testified. He merely asserts that he believes that he is capable of receiving one. Surely this is not a danger of such magnitude and of such an imminent character as to justify expelling him from the United States Senate, especially since he asserts under oath that in case he should have such a revelation, and it should command him to break a law of the United States, he would leave the country before violating the law.

It was stated by counsel for the protestants that "the *chief* charge against Senator SMOOT is that he 'encourages, countenances, and connives at the violation of law.'" (Vol. 3, p. 611.) Senator SMOOT is one of the twelve apostles of the Mormon Church, and as such he has voted to sustain in office members of the church who continue to cohabit with wives which were taken prior to the manifesto of 1890 and the admission of the State into the Union. It is claimed that by thus voting to sustain them in the church he encourages, countenances, and connives at a violation of law.

It will be borne in mind that in doing this Mr. SMOOT merely approved of their fitness and qualifications for the particular positions they occupied. He did not in any way pass upon the legality of their acts, but merely upon the moral quality of the acts *as measured by the standards of that church, and therefore of their fitness to hold the exalted positions which they occupied.*

Mr. BEVERIDGE. They not being civilian positions.

Mr. KNOX. Being religious positions, as I have indicated. He in no way countenanced or encouraged their illegal acts. With that he had nothing to do. His own views and conduct in regard to that subject were well known, and prevented the possibility of any misunderstanding on that point. He merely passed upon their qualifications with respect to the particular church positions which they then held and the advisability of retaining them in those offices. Some officers of the Mormon Church hold official positions in corporations. Is a stockholder who votes for them an accessory if they live in polygamous relations?

It will also be noted that those officers were not violating any law of the United States, but merely a State law, which all, Gentile and Mormon alike, knew to be a dead letter. The Mormon Church and the State of Utah are in the same position on the subject of polygamous cohabitation. The church law does not prohibit it, and the State law against it is not enforced. Senator SMOOT is no more culpable in not denouncing the practice and in not prosecuting offenders than any other citizen of his State. Even during the time that Utah was still a Territory, immediately preceding the adoption of the constitution and its admission as a State, from 1890, the date of the manifesto, to 1896, and while the Territory was still under Federal control, when hundreds of men were living in open polygamy, there were scarcely any prosecutions (3–709). Judge McCarty, who was at that time assistant United States district attorney, testified before the committee (2–887, 888) that there was no disposition on the part of the prosecutors or on the part of the people to complain, and that his understanding was that instructions had been sent from Washington to the district attorney that he was *not* to interfere with men who were living in polygamous cohabitation if they had taken their wives before the manifesto.

After the adoption of the constitution this matter was left with the State to deal with, and it was dealt with in precisely the same way the United States had dealt with it for the six years preceding. The State enacted a law against polygamous cohabitation, but never enforced it, and says in effect "if you do not flaunt this relation so as to attract public notice, nothing will be said about it."

In the face of all this, it is now contended that while neither the officers of the United States nor of the State took any active interest in the enforcement of the law in respect to polygamous cohabitation, and while public sentiment and the general understanding was against such enforcement, that Senator SMOOT, himself a Mormon, should be expelled from the Senate of the United States merely because he voted to sustain in their positions church officials who violated that statute and that by so doing he directly encouraged and connived at a defiant violation of the law.

He no more encouraged and connived at a violation of the law than has many of the Presidents of the United States time and time again in appointing to office Mormons, including governors, postmasters, etc., who have maintained the polygamous relation. And I will say further that if Senator SMOOT is disqualified for this reason, then for a very similar reason, and measured by the same standard, every man entertaining the same tolerant views is disqualified.

The only thing alleged against SMOOT is that he lets this sleeping dog lie. If this disqualifies him, every citizen of Utah, Mormon and Gentile, is likewise disqualified, who likewise refrains from prosecuting the old Mormon polygamists—and they all do.

At the beginning of this inquiry it was expected that it would be shown by protestants that a large number of polygamous marriages had taken place since the manifesto and the admission of the State, and that the church actually connived at and approved of such marriages, but what is the fact? Notwithstanding the most assiduous inquiry and research not one case has been shown of a polygamous marriage occurring in Utah after the admission of that State.

Other claims of disloyalty of the Mormon Church are founded upon certain features of the endowment ceremonies and upon the contention that candidates for political offices in Utah must receive the approval of the Mormon Church or they can not be elected, and that Senator SMOOT asked and received the permission of that church before he became a candidate for the Senatorship.

This latter contention grows out of a rule of the church which was formerly merely a practice, but is now clearly stated in the form of a rule, so that there may be no doubt as to what the church's position is in this respect. The rule is self-explanatory and will be found on pages 168 to 171 of volume 1 of the proceedings. (See also the remarks of counsel, vol. 3, pp. 656–658.) It is nothing more than a leave of absence, and applies not to the public generally, but only to officers of the church who have taken upon themselves obligations and duties which would be interfered with by the additional duties of a

political character. In such a situation it is perfectly competent and proper for the church to be consulted in order that it may determine whether the added duties are of such a character as will unduly interfere with church work. There is nothing compulsory about this approval or permission. Each officer has a perfect right to resign from his church position and become a candidate without submitting the matter to the church at all. It is only as he may desire to retain his church connection that the permission of the church is essential. The rule applies to church officers only, and not to lay members.

This is no more than would be expected of any Protestant minister. The same thing has occurred in that very State in regard to a Methodist minister whom it was desired should become a candidate on the Republican ticket for the constitutional convention. Justice McCarty refers to this incident in his testimony (vol. 2, pp. 891–892). The minister's name was Miller, and he resided at Monroe, Utah. Before being nominated he stated that it would be necessary for him to communicate with Doctor Iliff, in charge of the Methodist mission in Utah, and obtain his consent. The "consent" was obtained, and no question as to the propriety of his action has ever been raised.

It is true that for political purposes both parties usually claim that their candidates have received the sanction of the Mormon Church, but that church is not responsible for the expedients resorted to by politicians.

With regard to the endowment ceremonies, or oath of vengeance, as it is called, it has not been shown with any degree of certainty what that obligation was. It was delivered orally, and those who have attempted to describe it have done so from their memories. It is claimed that it is an obligation to pray to God to avenge the death of the prophets upon this nation. This is strenuously denied. Others who have taken the oath have stated that they were not required to take and did not take any oath or obligation against any person or any country or government or kingdom or anything of the kind (vol. 1, pp. 436–437, 744; vol. 2, pp. 759, 773, etc.); that it was in the form of a lecture, founded upon the tenth verse of the sixth chapter of Revelation, which reads: "How long, O Lord, holy and true, dost Thou not judge and avenge our blood on them that dwell on the earth." Many have testified that there is no obligation inconsistent with the duties of good citizenship. At most, it was nothing more than an obligation to pray to the Almighty to avenge the death of the prophets upon this nation. In view of the fact that it is Almighty God who is to wreak this vengeance, the danger does not seem to be at all imminent. Whatever the exact nature of the oath, it was not shown that of the many who have taken it anyone had ever acually interested himself in wreaking this vengeance, nor was it shown that any person ever heard of anyone who had attempted it. On the other hand, the Mormons of Utah have enthusiastically taken up arms in defense of the nation in every time of danger and need.

So far as Senator SMOOT is concerned, Mr. Tayler, counsel for the protestants, states (vol. 1, pp. 103, 119, 121) that he makes no claim to his taking such an oath, and will not attempt to prove it. Senator SMOOT himself testifies that he never took any oath to avenge anything, and that he took his oath as a Senator without any mental reservation whatever (vol. 3, pp. 184–185), and again, in his answer to the protest (vol. 1, p. 31), he states that he has never taken any oath or assumed any obligation controlling his duty under his oath as a Senator, but that he holds himself bound to obey and uphold the Constitution and laws of the United States, including the condition in reference to polygamy upon which the State of Utah was admitted into the Union.

Mr. President, polygamy is dying out. Polygamous marriages have ended in Utah. A few years are as nothing in the life of a state or nation, and in a few years persons plurally married before Utah's admission will be rare objects of curiosity.

As practical men, should we not be content with that?

If other religions have taught polygamy at one time and condemned it at another, why can we not be satisfied to see a reversal of the teachings and a gradual but sure extinction of polygamous practices among the members of the Mormon Church and call our being so satisfied no more than religious toleration?

If the Mormons are said to believe in a hierarchy more or less concerned with mundane affairs, they are not the only sect whose priesthood meddles with worldly affairs without the members being for that reason excluded from Federal offices.

And if prayers for vengeance for violence against prophets are required of Mormons and the history of the church is not unstained with deeds of blood, what Christian or Jewish sect has left out vengeance and has a bloodless history? The crusades and the wars of the sixteenth, seventeenth, and nineteenth centuries, and the old Jewish wars—numberless massacres and slaughters of heretics—these are not held to require the expulsion from the Senate of men who belong to the various Christian churches or are Jews.

It has been frequently said that Senator SMOOT should be expelled from the Senate in order to protect the sanctity of the American home. I do not see how the sanctity of the American home is at stake in this issue. If the Mormon Church teaches polygamy and encourages its practice, surely the fact that Senator SMOOT is a monogamist and has from his youth up set his face and lifted up his voice against polygamy is conclusive evidence that he is fighting by precept and example for the sanctity of the American home against his church and under circumstances requiring the greatest moral courage. If, on the other hand, the Mormon Church is not teaching and encouraging polygamy the argument that the sanctity of the American home is involved here utterly fails. You may take either position and it will lead to Senator SMOOT's complete vindication and to the certain conclusion I have indicated, that the purity of the American home is not in jeopardy. You may take either horn of the dilemma. If the church is teaching polygamy SMOOT is preaching and practicing monogamy. If the church is not teaching polygamy it is blameless, and the whole case against SMOOT fails.

Mr. President, we are all sworn to support the Constitution of the United States. Personally I construe this to mean that I have solemnly obligated myself not to vote to deprive any person or State of any right guaranteed by that instrument.

Entertaining this view, and for the reasons I have stated, I could not yield to the importunities and in some cases the demands that I cast my vote for Senator SMOOT's expulsion without deliberately violating my oath of office, without yielding my judgment to others as it is alleged Senator SMOOT will yield his to the Mormon Church, and without converting my place here from one of honor to one of shame.

RESTRICTION OF IMMIGRATION.

Mr. DILLINGHAM. I ask that the report of the committee of conference on the bill (S. 4403) entitled "An act to amend an act entitled 'An act to regulate the immigration of aliens into the United States,' approved March 3, 1903," be laid before the Senate.

The VICE-PRESIDENT. Is there objection? The Chair hears none, and the report is before the Senate.

Mr. DILLINGHAM. I ask for its adoption.

The VICE-PRESIDENT. The question is on agreeing to the report.

Mr. BACON. Mr. President, I trust this report may be allowed to go over until to-morrow. I beg to assure the Senator that I make the suggestion with no disposition whatever to delay the consideration of this important matter, but it is an utter impossibility for us to intelligently consider the report without having the time to read it. Of course it was read yesterday in part from the desk. It was manifestly impossible then for us to understand intelligently what its full scope and meaning were. It has been placed on our desks only this morning. I never myself saw it until fifteen minutes before the Senate convened. Since then, of course, there has been no opportunity to read it.

It is a very unusual report in the scope of the matter which it covers. It is not like an ordinary report where there is a difference between the two Houses on a few isolated points well defined.

The VICE-PRESIDENT. The Senator from Georgia will suspend. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. Table Calendar No. 26, Senate resolution No. 214, by Mr. CARTER.

Mr. CARTER. I ask unanimous consent that the unfinished business be, for the time being, laid aside.

The VICE-PRESIDENT. Without objection, it is so ordered. The Senator from Georgia will proceed.

Mr. BACON. This matter in a practical form is presented in this way to the Senate. The Senate passed a bill with a great many different features or rather embracing a great many sections. It was a long bill. It went to the House, and the House passed another measure equally long as a substitute for it. That went into conference, and it has been there for a number of months. Then the conference committee reports a third bill, made up, I suppose, very largely of the matter which was between the two Houses in common, but also attaching to it a large amount of independent matter, absolutely new and making in the neighborhood of one hundred different changes in the existing law.

I say, Mr. President, it is an absolute utter impossibility for us to be able to understand this report in the limited time which has been given to us to examine it. I understand the cause for the urgency in the matter to be one which relates to the amendment relative to immigrants coming from other countries with passports to the insular possessions or to other countries. But the bill does not stop there. If it did, whether I approve it in all particulars or not, I would be content to let it go by without anything being said by me, although there are some features which I might possibly object to. But the report of the conferees goes further in the bill which they present to the Senate.

Mr. DILLINGHAM. Will the Senator allow me?

Mr. BACON. I will.

Mr. DILLINGHAM. The conferees have no disposition to press the consideration of this report unduly. They desire that the Senate and the individual members of the Senate shall examine the report with great care and detail, because they believe they have presented a bill which will meet with the approval of all.

The Senator has referred to reasons why there should be speedy action. Those reasons seem to the conferees to be imperative, but, as I said before, they have no disposition to press the consideration until the Senate can make a careful examination of the report.

If there can be a unanimous-consent agreement that the vote shall be taken on the report to-morrow, I would be glad to let it go over until that time. I presume there may be no objection to that course.

Mr. BACON. I do not know about that.

Mr. DILLINGHAM. There is other business pressing, and if the Senator wants to make a suggestion of that kind I will very gladly join him in it.

Mr. BACON. While I have every disposition to do whatever may be necessary to expedite the particular thing which makes urgency important, as I was saying, the bill is not limited to that, and there are matters in it which most vitally concern the people of the section from which I come. It is not any slight matter; it is a matter of absolute life and death to the industries of the people of my section—not only to my State, but of other States of that section. It is not possible that we could consent to the taking of the vote at any time until this matter has been properly investigated and understood by us.

The important fact can not be overlooked, when we come to talk about voting on the report, that here is a lengthy bill, as I said, with nearly a hundred changes in existing law, many of them most vitally interesting to a great section of this country and not affecting simply the Pacific slope; and we are in a position where we can not offer an amendment to it because it is a conference report. We must, under the rules governing the consideration of conference reports, accept this bill in its entirety, with all of its provisions, or reject it in its entirety.

Mr. President, in view of such a grave presentation as that and the magnitude of interests involved, with every disposition to yield everything that may be in the particular direction indicated by the Senator as to that which demands urgency, we could not, without a grave and serious abandonment of most important interests, consent to any particular time or hour or day for the taking of the vote. If it were a matter that we could proceed with by amendment, where, when a proper presentation were made, the Senate could sift out what might be deemed to be undesirable or objectionable and come to a vote upon that which was left, it would be a very different thing from a question whether we shall take a vote upon a matter involving so many interests, where Senators may be led to vote not with reference to particular details, but with reference to some particular consideration which may be uppermost or paramount in their minds.

Mr. DILLINGHAM. Mr. President, the Senator from Georgia has given more reasons than had occurred to me why the consideration of this report should begin at once. If there are as many questions as he says which are to be debated, then certainly the debate should begin at once. It had not occurred to me, however, that so many questions were open for consideration. A brief examination of the report will show that a very large majority, substantially all, of the changes in the existing law are those which were presented in the Senate bill last winter, carefully examined, considered, and passed upon. There are only two or three, perhaps, of a different character.

Yet with all this, as I stated before when upon my feet, I have no disposition to crowd this matter upon the Senate unless it can receive the consideration that is due to it. For the purpose of making progress, and doing it fairly to all concerned, I ask that the matter may be laid before the Senate to-morrow morning at the conclusion of the morning business, and that a vote be taken upon it before adjournment.

Mr. BACON. Of course, I am speaking only for myself. There are other Senators who are equally interested with me; I mean who represent interests which are involved in the same manner as the interests I represent are involved. I do not know what their views may be, but I have no objection to the consideration beginning to-morrow. I shall certainly not do anything to delay it in any manner. We want, however, the fullest opportunity for the discussion of it.

I repeat, the embarrassment in this case grows out of the fact that here is a conference report presenting a bill in which there is one particular thing which is recognized now as being of the uttermost importance, demanding urgency, and a thing which has attracted so much attention from a national standpoint that all other matters may be lost sight of; and yet we are compelled to vote upon this report as an entirety, and will not be in a position to try to have eliminated from the bill, by amendment, those things which are equally important to the section from which we come as the things which relate to matters concerning the Pacific coast.

I am perfectly willing that the matter shall begin to-morrow, and I shall not, so far as I am concerned, desire in any way to interrupt the consideration of it until it shall be concluded. But as to consenting that a vote shall be taken at a particular time, when there is so much involved and when we do not have the opportunity to try to correct the things which we object to by offering amendments, as far as I am personally concerned it will be impossible to consent to a particular time for taking the vote.

Mr. McCREARY. Mr. President, I take a very deep interest in the conference report. I am upon the Committee on Immigration and assisted in preparing the immigration bill which passed the Senate nearly a year ago.

This is a very interesting subject, but it is one that there should be no delay in getting through with. I think the Senator from Vermont made a very fair suggestion. We ought to take up the conference report to-morrow morning. It seems to me that Senators can study the report to-day and to-night, and that we ought to take it up to-morrow and finish it.

It refers to very important questions; questions which should be decided. For one I can say that the conference report is satisfactory to me in the main, and I have given as much study to this question as any other question that has come before us since I have been in the Senate. I believe that there should be action, and speedy action, on the conference report. I hope it will not be delayed. I hope we will take it up to-morrow and dispose of it.

Mr. DILLINGHAM. Mr. President, I renew my request for unanimous consent, that the report be laid before the Senate to-morrow at the close of the routine morning business, and that a vote be taken upon it before adjournment to-morrow.

The PRESIDING OFFICER (Mr. PILES in the chair). The Senator from Vermont asks unanimous consent——

Mr. TILLMAN. Mr. President, I hope the Senator will not press that request.

Mr. LODGE. I ask that the request for unanimous consent may be stated by the Chair.

The PRESIDING OFFICER. The Senator from Vermont asks unanimous consent that the conference report now under consideration be laid over until to-morrow morning, that it be taken up immediately after the conclusion of the morning business to-morrow, and that a vote may be had on it that day.

Mr. LODGE. Before adjournment?

The PRESIDING OFFICER. Before adjournment.

Mr. TILLMAN. Mr. President, I want to say that there are questions involved in the report of very serious moment. I for one am not disposed to delay the action of the Senate upon them, but I think the Senator in charge of the report could secure all he wants and get early action without undertaking to get an agreement. Things might develop after an examination which would make it obligatory on some of us to fight the report until the 4th of March, if necessary, rather than see it become a law. I do not think it is entirely fair to ask that we shall be pledged to vote to-morrow whether we are ready or not.

So I hope the Senator will not press his request and will let us take up the report to-morrow morning, that we may have one more twenty-four hours in which to examine it. Then he can ask in the morning when we take up the report that we shall vote upon it before we adjourn, and probably we will agree upon that.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. With pleasure.

Mr. CULBERSON. I do not desire to interrupt the Senator. I thought he had concluded. I will wait until he gets through.

Mr. TILLMAN. I do not want to go into the merits of the subject until we know what we are doing.

Mr. CULBERSON. In that view, Mr. President, I will ask the Senator from South Carolina to yield to me for a question which I wish to ask the Senator in charge of the conference report, to see what, if anything, there is in the matter which has occurred to me.

Mr. TILLMAN. I yield to the Senator with pleasure for that purpose.

Mr. CULBERSON. I will state, Mr. President, that we have had a good deal of report, newspaper and otherwise, lately of a new treaty with foreign nations with reference to the immigration of their subjects who are coming to this country. Before the question of unanimous consent is definitely proposed, I invite the attention of the Senator from Vermont [Mr. DILLINGHAM] to this language in section 39 of the conference report, which is found on page 2816 of the RECORD:

> And the President of the United States is also authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States.

I do not know whether there is any significance in it, Mr. President, but this section does not use the language of the Constitution as to treaties, for there is no question but such an agreement between the United States and any other nation would be a treaty, and yet are we to infer from the language used, not being that of the Constitution, that it may be approved by a majority of the Senate? I therefore ask the Senator from Vermont if there is any significance in that action?

Mr. DILLINGHAM. None whatever, Mr. President.

Mr. CULBERSON. Does the Senator consider that such an agreement would be a treaty within the meaning of the Constitution and require a two-thirds vote of the Senate for its ratification?

Mr. LODGE. To what page of the conference report does the Senator from Texas refer?

Mr. CULBERSON. I have not the report convenient, but I refer to it as found printed on page 2816 of the RECORD.

Mr. TILLMAN. It is on page 13 of the conference report printed in pamphlet form.

Mr. CULBERSON. And section 39 of the report.

Mr. LODGE. Mr. President, the intention of the conferees was to bring any agreement of any form which was made within the advice and consent of the Senate, using the constitutional words "advice and consent." Of course such an agreement would be regarded as a treaty.

Mr. TILLMAN. I submit again to the Senator from Vermont the fairness and justice of allowing Senators an opportunity of reading this report and studying it one more day before he undertakes to drive it through the Senate.

Mr. DILLINGHAM. Mr. President, that is just what I have tried to do.

Mr. TILLMAN. But you want to get a unanimous-consent agreement that we shall vote on the report to-morrow without an opportunity of examining it.

Mr. DILLINGHAM. That places it on your own responsibility.

Mr. TILLMAN. You ought not to force us to take the responsibility. Perhaps we shall not want any responsibility. We may be willing to vote on the report to-morrow without discussion. The Senator from Vermont ought not to force us to get into a corner, as it were, and tie us hand and foot by an agreement. I do not want the Senator to understand that I am filibustering or that I am going to obstruct or prevent action on this report; but I submit that what I suggest is no more than fair and just to those of us who have not had an opportunity to read the report, who do not know what is involved in it, and who do not know what grave and serious questions may arise. I submit that we ought not to be compelled to vote on it to-morrow.

Mr. DILLINGHAM. Mr. President, it seems to me that the proposition which has been made for unanimous consent is a reasonable one in view of the lateness of the session and the very large volume of business that is awaiting attention; and unless it is granted I shall feel compelled to ask that the Senate proceed with the consideration of the report at the present time.

The PRESIDING OFFICER. Is there objection to the request for unanimous consent?

Mr. TILLMAN. I object, Mr. President.

The PRESIDING OFFICER. Objection is made.

Mr. TILLMAN. Well, Mr. President, that involves the effort to discuss and present questions here without preparation and without proper opportunity to get before the Senate all the matter which would be conducive to intelligent action. So far as I have had an opportunity to study this question, I call attention to the proviso on page 17 of the report.

Mr. BACON. Mr. President, am I to understand that the Senator in charge of the conference report declines to let the matter go over until to-morrow?

Mr. TILLMAN. He has said so in terms.

Mr. BACON. I wanted to know that.

Mr. DILLINGHAM. Mr. President, I will submit another proposition, because I want to be fair to everybody in relation to this matter. I ask unanimous consent that the consideration of this conference report be entered upon to-morrow at the conclusion of the routine morning business, and that the vote be taken before adjournment on Saturday. That will give abundance of time for the consideration of every question involved in the report.

Mr. TILLMAN. That does not answer the objection which I raised a moment ago, Mr. President, to the effect that in the investigation which we make we may come upon propositions in the report which to our minds are so important and vital in their character that we could not consent to have the report adopted at all if we could prevent it; and under the rules of the Senate Senators know that there is great opportunity for delay if a compact minority makes up its mind to fight aggressively. So I submit that to-morrow morning will be time enough to ask for a vote, after we have had an opportunity to examine the report. I do not want to be put into a corner. I would just as lief vote to-morrow night as Saturday night, for we may be willing to vote in an hour after assembling to-morrow if Senators have an opportunity of examining the report.

The question is, What is in this report? So far as I have been able to discover, the conferees have acted with a free hand; they have put into this conference report matters that were never passed by either body. They have amended and changed the immigration laws of the United States to suit themselves and to suit the special interests which seem to influence and control things here, and I for one am not prepared or willing to agree now to vote at any time.

Mr. DILLINGHAM. Then, Mr. President, I know of no other method to be adopted than to proceed with the consideration of the report.

Mr. TILLMAN. I say I can not agree now, but we might to-morrow morning agree upon a time and save the struggle of a discussion without proper preparation.

Mr. PATTERSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Colorado?

Mr. TILLMAN. Certainly.

Mr. PATTERSON. Mr. President, it seems to me there is abundance of business to occupy the Senate until to-morrow morning. As I understand the position of the Senator from South Carolina, it is simply to allow this conference report to go over until to-morrow morning, and that then the request for unanimous consent be taken up and acted upon.

Mr. TILLMAN. Certainly; and by me there will be no captious opposition or effort to delay.

Mr. PATTERSON. That is a very reasonable request, it seems to me, the Senator from South Carolina putting it on the ground that he wants time to examine the report. There is only one feature in the report, it seems to me, that will bring on any very considerable debate. That new feature I am in favor of, but for the purpose of facilitating the matter and preventing trouble, if possible, I suggest that the matter ought to go over as requested by the Senator from South Carolina.

Mr. TILLMAN. Well, Mr. President, I have been in the Senate twelve years, and yet I have never seen anything gained here by an effort to dragoon Senators, and those people who are ordinarily unwilling to fight and not spoiling for a fight can be very easily aroused to a condition of indignation and a sense of wrong and driven into an attitude which voluntarily they would not take.

I want to call attention mainly to the proviso—it is the one thing I have examined thus far—on page 17 of the conference reports, which reads:

> *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone.

I make the point of order, Mr. President, that this is entirely new and extraneous matter; that it was never considered by

either House; that it does not appear in either bill as it was passed by the Senate or by the House; that the conferees have exceeded their authority, and that they are entirely outside of their jurisdiction in having brought into this Senate a matter which has no business here.

Mr. LODGE. Mr. President——

Mr. TILLMAN. Mr. President [the Vice-President in the chair], I have stated the point of order, but the present occupant of the chair having been absent at the time, I shall have to repeat it.

Mr. LODGE. Is the Senator going to state it again?

Mr. TILLMAN. Yes. I make the point of order, Mr. President, that the proviso on page 17, in italics, at the end of section 1, just preceding section 2, is out of order, because the conferees have injected into this report matter that never was considered nor passed upon nor adopted by either House in either of the bills which they had under consideration.

Now, I will call attention, Mr. President, while I am on my feet, to the fact that last June, when the rate bill, with which I had to do at the time, was under consideration here, and a conference report was brought in, the conferees, in the desire to make a workable law, had taken the liberty, in the interest of what they thought was the public welfare and proper legislation, which seemed to be desired by all parties—one feature of which was afterwards added to the laws of the land in the way of a joint resolution—we brought that conference report here with three or four little amendments, entirely new, and which had never been considered by either body; and I recall now the terrible earnestness the Senator who is on his feet to combat the position I now occupy—I allude to the Senator from Massachusetts [Mr. LODGE]—and with what unction and zeal those conferees were lectured for their impudence in presuming to do this thing. I recall with what unanimity the conferees were notified that that was entirely outside of their jurisdiction; that they had no authority to do it; that the conference report must be taken back and changed and these extraneous and improper things be stricken out.

So, while I have seen in my service here matters submitted to the Senate itself and what everybody knew to be entirely out of order has been voted in order—and I suppose that is the method proposed now—I submit, Mr. President, that if we have rules we ought to stand by those rules and compel all our conferees to treat all bills alike.

Speaking further to the point of order, I call attention to the fact——

The VICE-PRESIDENT. The Chair will call the attention of the Senate to the fact, applying not only to the point of order under consideration, but to all points of order, that, under the rules, debate is not in order upon a point of order, and whatever debate there is is by unanimous consent. If there is no objection, the Senator from South Carolina may proceed.

Mr. TILLMAN. Proceeding then, Mr. President, I had referred to the action of the Senate and of various Senators relative to the conference report on the rate bill last June and the reprimand given the conferees in that instance for doing just what the conferees have done here. There is this difference, that when the Senate passed the immigration bill, changing the law in many particulars, it presented an entirely new bill, and the House struck out everything except the enacting words and enacted an entirely new bill. Based on this, it is contended that the conferees are at liberty to enact anything they see fit in regard to immigration; that there is no limitation whatever on their power, and that technically they have been within their rights.

What I contend for is that in neither of the entirely new bills which were passed—one by the Senate and one by the House—is there anything relating to the subject of the proviso which I have just read. That is absolutely new matter. It does not relate to anything which preceded it or which followed it. It is entirely separate and apart and relates to a condition which has arisen in the last three months and was not considered by either House. Therefore it is subject to a point of order.

The VICE-PRESIDENT. The Chair is prepared to rule upon the point of order.

Mr. LODGE. I ask permission to be heard very briefly in reply to the Senator from South Carolina [Mr. TILLMAN] on the point of order.

The VICE-PRESIDENT. Without objection, the Chair will hear the Senator from Massachusetts.

Mr. LODGE. In this case, Mr. President, we have an entirely different set of conditions presented from those presented in the case of the rate bill. In this case the Senate bill was stricken out by the House and a single amendment was made in the nature of a substitute—a long act covering every section of the existing immigration law. Therefore both bills in their entirety were open to the conferees and were subject to any modification which they might choose to make. Technically, there can be no doubt that in a situation like that the powers of the conferees are very large, if not unlimited.

In the second place, Mr. President, this amendment is not out of order in itself. It is a mere modification of a section which provides for certain exceptions in regard to admission to this country and for collection of a head tax. It is merely the application of the exceptions, such as are stated previously in the bill as to persons coming from Canada or from Mexico. It is a simple extension to meet another case in which entry to this country must necessarily be defined.

Mr. President, I do not desire to consume the time of the Chair or of the Senate on that point. It was held, formally decided by the Senate, no longer ago than last session that a point of order did not lie against a conference report. I contended for the House view and for the House position, which is that a point of order may be made against a conference report and the report, without a vote, be thrown out on the point of order. It was held by the Chair—correctly, as I now believe, in view of the precedents in the Senate—and sustained by the Senate that under the rules and practice of the Senate a point of order did not lie against a conference report, that the only vote possible was on the acceptance of the report—it could be either accepted or rejected—and that there was nothing else open to the Senate.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. In the absence of objection, the Senator from Texas may proceed.

Mr. CULBERSON. Mr. President, I desire to invite attention a moment to the rules. Rule XX provides:

1. A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate.

The Senator from Massachusetts [Mr. LODGE] a moment ago stated that a conference report was not subject to a point of order. On that subject I read from the pamphlet entitled "Conferences and Conference Reports," which is practically a part of the rules of the Senate. On page 16 it says:

Conferees may not include in their report matters not committed to them by either House. (1414–1417.) (50th Cong., 1st sess., Sen. Jour., pp. 1064, 1065; 54th Cong., 2d. sess., Sen. Jour., pp. 90, 91, 96.)

In the House, in case such matter is included, the conference report may be ruled out on a point of order. (See Rule 50, below.)

In the Senate, in case such matter is included, the custom is to submit the question of order to the Senate.

Showing that a question of order can be raised to a conference report, and, if raised, must be submitted to the Senate by the presiding officer. A note, Mr. President, by Mr. Cleaves to this rule is as follows:

NOTE.—In the Fifty-fifth Congress, first session, Vice-President Hobart, in overruling a point of order made on this ground against a conference report during its reading in the Senate, stated that the report having been adopted by one House and being now submitted for discussion and decision in the form of concurrence or disagreement, it is not in the province of the Chair during the progress of its presentation to decide that matter has been inserted which is new or not relevant, but that such questions should go before the Senate when it comes to vote on the adoption or rejection of the report. (55th Cong., 1st sess., Sen. Jour., pp. 171, 172; CONG. REC., pp. 2780–2787.) See also CONGRESSIONAL RECORD, page 2827, Fifty-sixth Congress, second session, when the Presiding Officer (Mr. LODGE in the chair) referred with approval to the foregoing decision of Vice-President Hobart, and stated that when a point of order is made on a conference report on the ground that new matter has been inserted, the Chair should submit the question to the Senate instead of deciding it himself, as has been the custom in the House. No formal ruling was made in this case, however, as the conference report, after debate, was, by unanimous consent, rejected. (59th Cong., 2d sess., CONG. REC., pp. 2826–2883.)

Mr. PATTERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Colorado?

Mr. CULBERSON. Certainly.

Mr. PATTERSON. I call the attention of the Senator from Texas to the fact that this identical question was raised and determined at the last session of Congress on the Indian appropriation bill, and the position taken by the Senator from Texas was sustained. A point of order was made to the effect that the part of the conference report that was under discussion until it was brought to the Senate had never been acted upon by either House, was held to be a good point of order, and the matter to which the point of order was referred was stricken out. The Senator from Maine [Mr. HALE] took very decided ground upon that question, and, if I am not mistaken, the Senator from Massachusetts [Mr. LODGE] did also.

Mr. LODGE. I took very decided ground, but was overruled both by the Chair and by the Senate.

Mr. PATTERSON. Mr. President, in the matter to which I refer—if the Senator from Minnesota [Mr. CLAPP], the chairman of the Committee on Indian Affairs, were here he would

recall it distinctly—at the last session of Congress the point was raised, and I raised it. The Senator from Maine sustained the position that I took. The Chair was ready to decide, according to a statement made by the Chair to me afterwards, but, on the statement by the Senator from Maine and other Senators that it was subject to the point of order, the Senator from Minnesota, chairman of the Committee on Indian Affairs, consented that that part of the report of the conference committee might go out.

Mr. TILLMAN. He withdrew the report, carried it back to conference, and brought it in again with that eliminated.

Mr. PATTERSON. He consented that it should go out. It was understood that it should go out, because there was not any dissenting voice, Mr. President, in that case. Everybody who addressed the Senate or the Chair upon the subject agreed that it was subject to a point of order for the simple reason that it was a matter that had not been considered by either House before the meeting of the conference committee. Coming back to the Senate in that way, after pretty full debate and very earnest speech by the Senator from Maine, in which he deprecated that kind of legislation and used strong language condemnatory of it, practically by unanimous consent the point of order was sustained. I think that was the last decision upon that question that we have had.

Mr. CULBERSON. Mr. President, when interrupted by the Senator from Colorado—and the interruption was entirely agreeable, of course—I had about concluded what I had to say upon the question as to whether the new matter in the report before the Senate was subject to the point of order. I desire to state and to submit to the Chair that, under the uniform rule of this body, it is subject to the point of order, and that it is the duty of the Chair to submit the point of order to the Senate.

In addition to the case cited by the Senator from Colorado, Mr. President, I want to remind the other side of the Chamber that less than a year ago, when the conferees, of which I happened to be one, on Senate bill 6248, entitled "A bill to amend section 5501 of the Revised Statutes of the United States," brought in some new matter, namely, bringing Members of the two Houses of Congress within the prohibition of that statute, but frankly stated to the Senate that such was the case, the point of order was made by Senators opposed to the bill, and the conferees were required and compelled to withdraw the report and reconsider the matter.

So I submit, Mr. President, that a point of order may be made to a conference report, and that under the rule cited it ought to be submitted to the Senate by the President.

The VICE-PRESIDENT. The Chair has heretofore had occasion to rule on a point of order raising precisely the same question in principle that is now raised by the point of order made by the Senator from South Carolina [Mr. TILLMAN]. The Chair, when the subject was first presented to his attention, examined with some considerable care the practice of the Senate in the premises. He came to the conclusion then that the practice of the Senate for some time past, at least, differed somewhat from the practice which obtained in the House. The Chair is of the opinion that the objectionable matter in the report, if any, can not be reached by a point of order, but the Senate may consider it when voting upon the question of agreeing to the report. On the 11th of last June the Chair ruled as follows:

> The Chair is of the opinion, as he has previously held, that under the usual practice of the Senate a point of order will not lie against a conference report. The matter in the report challenged by the point of order interposed by the Senator from Texas may be considered by the Senate itself when it comes to consider the question of agreeing to the report. The only question under the usual practice of the Senate, in the opinion of the Chair, is, Will the Senate agree to the conference report?

The Chair holds that the point of order is not well taken, and therefore overrules the point of order.

Mr. CULBERSON. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Texas rises to a parliamentary inquiry. He will state it.

Mr. CULBERSON. I am not certain that I understood the decision of the Chair just rendered on the point of order.

The VICE-PRESIDENT. The Chair overruled the point of order, thinking that it was not well taken.

Mr. CULBERSON. I understand. I want to see if I understand the ruling of the Chair.

The Chair first stated, as it occurred to me, that the point of order might be made and that the Senate in passing upon the conference report might consider the question whether or not the point of order was well taken. The Chair, however, as it seemed to me, notwithstanding that, decided himself that the point of order was not well taken. I would be glad to have the Chair state if my understanding of the ruling is correct.

The VICE-PRESIDENT. The Senator from Texas does not quite understand what the Chair said. The Chair is of the opinion that the point of order is not a matter for the consideration of the Chair. The matter which is now challenged may be properly considered by the Senate when it comes to vote upon the question of agreeing to the report. If matter beyond the jurisdiction of the conferees has been incorporated by them in the conference report, that is good ground for the rejection of the report when the Senate comes to act upon the entire subject-matter of the report. The Senator will observe that while the Chair overrules the point of order, the extraneous or improper matter included in the report, if any, is not by the ruling of the Chair withdrawn from the consideration of the Senate, but may be considered and will properly be considered when the Senate votes upon the question of agreeing to the report.

That is all that was said by Vice-President Hobart in his ruling to which the Senator from Texas has directed attention. The entire opinion of the Vice-President is not included in the pamphlet from which the Senator from Texas read. The most important part has not been incorporated in the pamphlet. That will be found to be so by the Senator upon an examination of the RECORD where the full text is published.

Mr. BACON. Mr. President, as I understand, then, the direction given to this matter by the ruling of the Chair, it is entirely proper for Senators to make points of order and to discuss them, but the decision of them will be relegated to the final vote of the Senate on the question of the rejection or adoption of the report of the committee?

The VICE-PRESIDENT. The Chair is of the opinion that interposing points of order does not change the status of the subject in the least, and that it is not necessary to make a point of order in order to give the Senate jurisdiction over the subject-matter challenged when the Senate comes to act upon it by final vote.

Mr. BACON. I understand, but the particular matter which I brought to the attention of the Chair, with a view to seeing whether I was correct in it, was as to the matter of procedure, that of course the question whether or not there is extraneous matter in the report of the committee is a matter of order, but that instead of being raised as a point of order, it will be pointed out in the debate as extraneous matter and urged as a reason why the report should be rejected; but that in each instance there is still reserved to Senators who think there is extraneous matter the right to make a distinct issue upon each one of those particular matters thus indicated.

Mr. NELSON. Mr. President, I concur in the first part of the ruling of the Chair, if the Chair will permit me, but I think the results drawn from that ruling are improper. The Chair practically stated in the first part of his ruling that the rule here is unlike the rule in the House of Representatives, which allows the presiding officer there to rule on such a question. If it is true, and I do not question it, that the President of the Senate has not the authority to rule on it like the Speaker of the House can, the decision of the Chair should be not to overrule the point of order made, but that the Chair has no jurisdiction to rule on the point of order; that it is a matter for the Senate. That would put our record in proper shape, for if the Chair rules against the point of order, and if it has a right to rule against it, then it has a right to sustain the point of order.

The VICE-PRESIDENT. The effect of the Chair's ruling is that the matter complained of is for the Senate to consider upon the vote upon the conference report and not for the Chair to determine.

Mr. NELSON. Therefore the Chair had no authority——

The VICE-PRESIDENT. The Chair meant to be understood in effect as saying that he could not entertain the point of order.

Mr. NELSON. To that extent the decision of the Chair is correct——

The VICE-PRESIDENT. Yes.

Mr. NELSON. That the Chair has no jurisdiction to entertain the point of order.

The VICE-PRESIDENT. That is the effect of what the Chair intended to say.

Mr. PATTERSON. Mr. President, I desire to suggest that the ruling which the Chair has just made will doubtless stand as a precedent. The Chair mentioned the decision of Vice-President Hobart, stating that the most important part of it was not incorporated in the pamphlet from which the Senator from Texas read. In order that the Senate may have the whole matter incorporated in the RECORD to-morrow I ask that the Chair will cause the Secretary to read the portion of the decision of Vice-President Hobart to which he referred in his opinion.

The VICE-PRESIDENT. The Secretary will read.

Mr. GALLINGER. Let the entire decision be read, Mr. President.

The VICE-PRESIDENT. The Chair is of the impression that

this is the entire opinion which was read at the request of the Senator from New Hampshire on the 12th of last June. The Secretary will read as requested.

The Secretary read as follows:

The VICE-PRESIDENT. The Chair has not the opportunity to look up any of the precedents that may exist on similar points of order made heretofore to the relevancy of items like the one in question contained in a conference report. The present occupant of the chair feels that it would be an unwelcome task if he is obliged to decide as to whether any or every amendment made in conference is germane to the original bill, or germane to the amendments made in either House or both Houses, or whether a conference report as submitted to the Senate contains new and improper or irrelevant matter.

The rules of the Senate certainly do not provide for such action, and the Chair calls the attention of the Senator from Arkansas and of the Senate to the fact that this conference report has been adopted by one House in this perfected shape, and that this report is now submitted here as a whole for parliamentary discussion and decision in the form of concurrence or disagreement.

All arbitrary ruling on a point of order like this after the bill has been fully passed by one House and approved by it can not be within the power of any presiding officer.

He can not decide while such a report is being discussed and during the progress of its presentation that matter has been inserted which is new or not relevant, and thus decide what should or should not have been agreed upon. It is not the province of the Chair.

All such questions are such as should go before the Senate when it votes upon the adoption or rejection of the report, which is the only competent and parliamentary action to be taken.

If the Senate itself can not amend this report, and it admittedly can not, the Chair can not do more in that respect than the Senate itself. The Senator from Arkansas asks the Chair by its decision to do that which the Senate itself can not do, to amend this conference report. It is not possible to amend by such a method. The Senate must decide for itself as to the competency of this report in all particulars and the relevancy of all amendments.

No rule or practice permits the presiding officer to annul the action of a conference committee, and thus indirectly to amend it. The Chair has not the power to thus negative the action of a free conference and send a passed bill back to a new conference without a vote. Only the action of the Senate upon the vote taken upon concurrence has that power.

The effect of such a decision, if made, can only be surmised. Where would the bill go if thus amended? Not to the conference committee, for that has been dissolved upon the making of its report to the other House and acceptance there. Not to the Senate conferees, for they have concluded their action also. Possibly to the Senate Finance Committee, where the bill started many months ago. Such a decision, therefore, that paragraph No. 396, contained in the conference report, contains new matter or new legislation, or is not germane or relevant, might be tantamount to indefinite postponement of the bill. Surely the Chair has no such power, and if exercised would be arbitrary in the highest degree.

The Chair decides that the point is not well taken. (CONGRESSIONAL RECORD, 55th Cong., 1st sess., vol. 30, pt. 3, pp. 2786, 2787).

Mr. BACON. Mr. President, if the suggestion of the Senator from Massachusetts [Mr. LODGE] as to the powers of conference committees in a case such as that now before the Senate, where the report is one submitting an entire bill, growing out of a condition where the Senate had passed one bill and the House another bill, is correct, it would absolutely destroy the fundamental principle which controls the action or should control the action and is designed to control the action of conference committees, that they shall not in any manner undertake to legislate as to matters which were not committed to them growing out of the differences between the two Houses. I do not recall the exact language of the Senator from Massachusetts, but I think he said that in such a case the powers of conference committees were practically unlimited. I think he used the word "unlimited." If so, there is nothing which is better calculated to illustrate the necessary fallacy of the position taken by the Senator from Massachusetts, because there can be no legislative construction of the powers of a conference committee which gives them unlimited power to legislate as to the subject-matter involved.

Mr. LODGE. The Senator, of course, did not understand me as saying that they were not limited to the subject-matter.

Mr. BACON. No.

Mr. LODGE. I mean conferees on an immigration bill could not legislate on an appropriation bill.

Mr. BACON. No; I did not even——

Mr. LODGE. I meant practically unlimited on the subject before them.

Mr. BACON. Exactly.

The proposition of the Senator is that when a case is presented such as this is, that the only limitation to the power of the conference committee is that they shall confine themselves to the subject, and that when confining themselves thus to the subject, there is no limitation upon them. They may roam at will throughout its entire extent and present to the Senate for its consideration and adoption any measure they may see fit to present, provided it is upon that subject. If that is true, there could be no more dangerous proposition submitted to a deliberative body.

This particular matter before the Senate is one which illustrates the danger of it. I am sorry we have not more Senators here to listen to our presentation of this argument, because it is one which concerns us vitally.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Texas?

Mr. BACON. Certainly.

Mr. CULBERSON. I suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Texas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ankeny	Cullom	Hemenway	Newlands
Bacon	Curtis	Heyburn	Nixon
Berry	Daniel	Kean	Patterson
Beveridge	Depew	Kittredge	Perkins
Blackburn	Dick	Knox	Pettus
Brandegee	Dillingham	La Follette	Piles
Burkett	Dubois	Lodge	Proctor
Burnham	Du Pont	Long	Rayner
Burrows	Elkins	McCreary	Scott
Carter	Flint	McLaurin	Simmons
Clapp	Frazier	Mallory	Smith
Clark, Mont.	Fulton	Millard	Stone
Clarke, Ark.	Gallinger	Money	Sutherland
Clay	Gamble	Mulkey	Tillman
Culberson	Hansbrough	Nelson	Whyte

The VICE-PRESIDENT. Sixty Senators have answered to their names. A quorum is present.

Mr. FULTON. I have been requested to state that the Senator from Wyoming [Mr. WARREN], the Senator from Missouri [Mr. WARNER], the Senator from Ohio [Mr. FORAKER], and the Senator from Florida [Mr. TALIAFERRO] are in the Committee on Military Affairs, engaged in taking testimony in pursuance of an order of the Senate.

Mr. SCOTT. Mr. President, I should like to inquire how those of us who are on committees engaged in investigations are regarded. We do not want to be marked as being absent, and I understand we have the privilege of holding committee meetings during the session of the Senate. Is that correct?

The VICE-PRESIDENT. That is the practice.

Mr. BACON. Mr. President, I hope Senators on the other side of the Chamber will give us their attention. I am sorry there are so few of them present, because I do not believe, if they could hear the presentation we have to make as to the injustice that this bill does to the industries of our part of the country, they would sustain the report of the committee.

Before endeavoring to present some matters right along the line of the great injustice which I said one feature of this bill does to important industries in our part of the country, I want to complete what I was saying on the subject of the proper functions of a conference committee. I was discussing the position taken by the Senator from Massachusetts [Mr. LODGE]——

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from New Hampshire?

Mr. BACON. I do.

Mr. GALLINGER. Before the Senator from Georgia proceeds to discuss that will he direct my attention to the section or paragraph in the bill to which he alludes, that I may examine it?

Mr. BACON. I am going to do so in a very imperfect way, because I have not had time to read the bill, although I am going to take the time of the Senate in an endeavor to read it. As I am not to be allowed to read it elsewhere, I will read it here.

Mr. GALLINGER. If the Senator is going to read it——

Mr. BACON. But I call the attention of the Senator particularly to page 18, in order that he may look at it. I will come to it directly.

Mr. GALLINGER. I thought the Senator was about to proceed to the discussion of another question.

Mr. BACON. In order to make coherent what I had said, I want to add a few words, which will probably take four or five minutes, and then I will come to my discussion of that question——

Mr. GALLINGER. I will listen to the Senator.

Mr. BACON. Without having had the opportunity to do more than glance at it.

I was discussing the question whether or not the fact that a bill had passed the Senate in one shape and had passed the House by a substitute, and had then been committed to a committee of conference, clothed the conference committee with the powers claimed by the Senator from Massachusetts, powers limited only by the extent of the subject involved, or whether the conferees were still bound by the fundamental rule of conference committees, that they must limit their consideration and their report to matters of difference between the two Houses.

I only want to say in that connection that where the Senate passes a bill in its entirety and the House, instead of amending that bill by piecemeal, passes a substitute for it also in its entirety, that condition of affairs thus presented does not change the rule. The conference committee are limited in their powers to a consideration of the points of difference between the two Houses.

It may be a matter of some difficulty to definitely determine what are the precise points of difference, but it is none the less necessary that the bill passed by the Senate and the substitute passed by the House shall be compared, and that in so far as they agree the conference committee have no jurisdiction whatever; that in so far as they differ, points of difference are thus developed which the conference committee are clothed with jurisdiction to consider, and their power is limited to those points of difference as much in that case and as rigidly in that case as in the other case where the one House passes the bill with distinctive, independent amendments, as is usually done.

I will not stop to discuss that, though I may have occasion before this debate concludes to call attention more particularly to that proposition and to apply it to various amendments which are proposed by this conference report, which we shall insist are in no manner connected with any points of difference between the two Houses, but are independent matters of legislation growing out of no such differences.

Mr. President, I ask the Senators on the other side of the Chamber to let me present to them and to give consideration to a matter which I now bring to their attention. As I said, I have had no time to read this document. I have had but a mere glance at it. I call attention to page 18 of the document, which was printed last night and laid on our desks this morning. It is not indicated by numbered lines, so I will have to indicate it by the relative position upon the page. It will be seen by reading it that there is an attempt, as far as I can gather from the casual reading, to utterly destroy all possibility of the securing of any immigrants by means which are now permitted under the law as it stands to-day. I will read some part of it.

Mr. LODGE. May I ask the Senator a question, as I want to understand his point? He means that this prevents the importation of contract labor?

Mr. BACON. I mean to say that it goes much further than the law as it now exists.

Mr. LODGE. That is not my question. Does it prevent more absolutely the importation of contract labor than the present law?

Mr. BACON. The Senator can discuss the question whether it does or not. I am going to discuss the very question which he asks.

Mr. LODGE. I can understand why the Senator does not answer my question.

Mr. BACON. The Senator need not fear to ask me any question he wishes, and I will answer it in my own way.

Mr. LODGE. I am not afraid to ask it. All I am afraid of is that I can not get an answer.

Mr. BACON. The Senator need not be apprehensive on that point. I think he will have a full answer before the debate gets through.

Mr. McCREARY. Will the Senator read the matter to which he referred?

Mr. BACON. If the Senator will permit me, I will do so with pleasure. As the law now stands, there is no limitation upon the States of the Union undertaking to bring laborers into the United States, and there is no limitation upon an officer of the State having the assistance of money contributed by individuals for that purpose. Under the law as it stands, the State of South Carolina undertook to bring in laborers to supply a most pressing need in that State, a need which exists in other States in that section to the same degree that it exists in the State of South Carolina.

Mr. President, I am going to give a history of this matter as disclosed in a letter from the Secretary of the Department of Commerce and Labor. Under the law as it now exists the commissioner of the State of South Carolina, supplied with funds by individuals, has been bringing in immigrants to be employed in the cotton mills of South Carolina and other industries where they are so much needed. Several shiploads have been brought in. The attention of the country having been drawn to it, an effort was made to bring the commissioner or the officer of the State under the terms of the law as a violator of it. The matter came to the Department of Commerce and Labor for its decision. I hold in my hand the decision of the Secretary of Commerce and Labor on that subject, which I now propose to read to the Senate.

Before proceeding to read the decision I wish to say that we all understand what has brought this conference report to the Senate. We know that a condition of affairs, which in no manner relates to the industries and interests of which I am speaking, has attracted the attention of the whole country, and even of other countries, and that there is an acute situation which it is the purpose to relieve by bringing in this report. If the report were limited to that, so far as I am concerned, I would have nothing to say. But it is an illustration of what is said of the decisions of courts, that hard cases make bad law. In other words, in the case of courts, in order to meet hard cases the law is frequently bent and distorted in order that injustice may not be done in that particular case. So it is here. In order to meet this case of emergency on the Pacific coast a report is brought in which does not simply relate to that matter, but which covers the entire field of the question of the introduction of immigrants into this country, and opportunity is taken to supply a drastic rule which will do great injustice to some parts of the country, and under the stimulus of this acute situation to induce Senators to vote for a report containing this injustice, even though they may not approve it, in order that this other great end may be accomplished.

Mr. LODGE. I do not think the Senator desires to misrepresent the conferees, of whose action he knows nothing but from the report. In order that he may not misrepresent them I desire to say that this report, without the clause relating to passports, was entirely complete several days ago and would have been presented to the Senate without any reference to that clause.

Mr. BACON. That may be all true, but, Mr. President, the conferees had the opportunity to present this immigration restriction to the consideration of the Senate and to invoke the decision of the Senate with the hope of success that they otherwise would not enjoy, because of the fact that the great interest in this conference report is one which does not concern the particular matters of which I am now speaking, but is an interest in the California situation which is so great that Senators who may not agree with the conferees upon this particular matter that I am speaking about may still vote for the report in order to effect the particular object that they may consider of greater and even of paramount importance.

I can not speak for other Senators, but in opposing this report I in no manner propose to interfere with the accomplishment of what I say is the principal thing which has brought this report here. We all know the fact that the conference committee have been at a deadlock on the immigration bill ever since last June, and we all know that everyone had despaired of the possibility of the conferees coming to an agreement which would enable them to present a report to either House. It was known to be an absolutely fixed deadlock. We know it is only because of this matter on the Pacific coast that the committee have been able to agree to throw aside differences on other matters and to bring in a report which will accomplish this particular object, and that other questions are subordinated. The conferees can not be ignorant of the fact that the great importance of the question which has thus brought them together in an agreement is one upon which they hope to rely, and that other matters, however wrong they may be in this report, will be subordinated, and that the report as a whole, including the objectionable features, may thus be adopted.

Mr. President, I want to say in this connection that it was not necessary to do that in order to accomplish what they wish to accomplish with reference to this matter on the Pacific coast. So far as I am concerned, if they had a joint resolution here which presented a solution in the control of the immigration on the Pacific coast which was deemed satisfactory by those most interested in it, they could pass that resolution through to-day by immediate action, under a suspension of the rules, and in twenty-four hours it could be passed through each House. It is not necessary that it should be engrafted upon this bill, and it is not necessary that Senators should do a great injustice to a great section of this country, utterly oblivious to the interests of that section in order to accomplish this other end.

Is it important that the Pacific coast shall be protected? Yes; we say so; and we of the South have ever stood here cooperating with the Senators from the Pacific coast in the effort to protect them against the matters with which they are now threatened in one shape or another. Can it be said, Mr. President, when we come to legislate for the entire country, that as to the great section, with the great interests about which I shall briefly speak, and with their great demands, with their great needs, they are to be utterly ignored, and this single question to be allowed to occupy the consideration of Congress to an extent that so long as there can be accomplished what they require, it matters not how thoroughly and ruthlessly the interests of other sections may be trampled under foot?

Mr. President, I started to read this report from the Secretary of Commerce and Labor. It will illustrate to the Senate the injustice of the adoption of this report, which results in the passage of a bill that we have never had a chance to consider or to offer an amendment to. It will also illuminate the Senate as to the influences which are back of the particular action which has resulted in the features of this bill of which I shall speak.

I am sure that when Senators have heard it they will not wonder that we are not willing to consent that a certain time shall be fixed for the consideration and a vote upon this report, when we have not even had a chance to read it, and when even in glancing our eyes hurriedly across the page we can see this injustice which is thus sought to be perpetrated upon us.

Mr. President, I am going to read this report in full. It is headed:

DECISION NO. 111.

DECEMBER 26, 1906.

To whom it may concern:

The following decision is published for the information of those interested.

OSCAR S. STRAUS, *Secretary.*

[Foreign laborers—Introduction of, by State of South Carolina.]

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SOLICITOR,
Washington, December 15, 1906.

SIR: The accompanying papers, constituting the file of the Bureau of Immigration relating to certain activities of Mr. E. J. Watson, commissioner of agriculture, commerce, and immigration of the State of South Carolina, in bringing about the immigration of a large body of aliens and placing them at work in that State, were referred to me by your letter of November 16, 1906, and my opinion is required as to whether the plan pursued by Mr. Watson, as it is shown to have been carried out, involves a violation of the immigration laws of the United States prohibiting the importation of contract laborers—

If the Senator from Massachusetts will give me his attention he will find an answer in a large degree to the question which he propounded to me—

and if so, in exactly what particulars the exemption in favor of States, Territories, and the District of Columbia, contained in section 6 of the act of March 3, 1903, has been erroneously applied.

The questions presented are both important and delicate—

I pause, Mr. President, to ask the attention of Senators to the fact that that is a ruling upon the law as it now stands; and then I will ask the attention of the Senate to the fact that the language used in this bill is not intended directly to put the law in a condition where this would longer be a construction of it, but where this construction would be a violation of it.

The questions presented are both important and delicate, and before undertaking to answer them it was necessary to prepare a careful brief of the facts out of which the questions arose and upon which an opinion might be predicated. The size of the record and the need of making proper mention of the various details of the transaction render the statement prepared too long for insertion here. For present purposes it will suffice to indicate the salient features of the case as follows: It appears that the agricultural and manufacturing industries of South Carolina were languishing and in danger of material injury for lack of labor; that this was particularly true of the cotton industry, fully 20 per cent of the spindles in the State being idle; that this condition would inevitably work to the injury, not only of the operating companies and their stockholders, but to the injury of labor already employed; that the South Carolina mills had tried in the State itself, in adjoining States, and in various parts of the United States to secure the necessary labor, but without success, by reason of the great demand for labor throughout the South; that the sanitary, educational, and living conditions provided for mill workers in the State, as well as the hours of labor required and the rate of wages paid, were satisfactory in themselves and were being constantly improved; that immense property values and the welfare of thousands of laborers are involved in the successful operation of the mills of South Carolina, wherefore not only the interests mentioned but the State itself would suffer from an insufficient supply of labor; that the mill owners, being forbidden by Federal law from themselves procuring the immigration of foreign contract laborers, were denied relief from this source, unless the immigration of laborers could be secured through the agency of the State. An appeal to the legislature resulted in the passage of an act approved February 23, 1904, creating "a State department of agriculture, commerce, and immigration," and providing for a commissioner thereof, who was charged generally with the duty of promoting the industrial development of the State by the collection and publication of information addressed to "those seeking homes and investments in agricultural or manufacturing industries," and specifically with all work looking "to the inducement of capital and desirable immigration by the dissemination of information relative to the advantages of soil and climate, and to the natural resources and industrial opportunities offered in this State." Besides appropriating the sum of $2,000 for defraying the expenses of the new department, the act contained the following provisions:

"SEC. 8. That the commissioner be empowered to make such arrangements with oceanic and river steamship companies and immigration agencies in this country and abroad as may best serve the interests of successful immigration, the necessary expenditures being made within the annual appropriation for the general expenses of this department: *Provided, however,* Nothing herein shall forbid the commissioner acting without fee as the agent of such citizens of the State, who, through the South Carolina Immigration Association and the department, wish to meet excess expenses of bringing desirable immigrants to their farm or other lands. That in the discharge of these duties the commissioner, or such person as he may select, is empowered to visit such immigration centers whenever necessary to produce the best results.

* * * * * * *

"SEC. 11. That immigrants shall be confined to white citizens of the United States, citizens of Ireland, Scotland, Switzerland, France, and all other foreigners of Saxon origin."

A commissioner having been duly appointed, an association of private persons (whether the South Carolina Immigration Association or the Cotton Manufacturers' Association of South Carolina is not clear) made up a fund amounting to $30,000 or more, which was placed at the disposal of the commissioner, and which, with the sum appropriated by the State, constituted a general fund for the encouragement of immigration.

Mr. TILLMAN. May I ask the Senator from what document he is reading?

Mr. BACON. I am reading from a document issued by the Department of Commerce and Labor, so headed, and entitled "Decision No. 111." It is the decision issued by the Secretary of Commerce and Labor. The document I am now reading from is signed by Charles Earl, solicitor, and also by the Secretary of Commerce and Labor, and it is promulgated by the Secretary of Commerce and Labor, which I read when the Senator, I presume, was not in his seat, with this headnote:

To whom it may concern:

The following decision is published for the information of those interested.

OSCAR S. STRAUS, *Secretary.*

Mr. TILLMAN. I am much obliged to the Senator.

Mr. BACON. Mr. President, I resume the reading:

It does not appear what restrictions, if any, were placed upon the specific uses to which this fund might be put. In August of the present year the commissioner, Mr. E. J. Watson, went to Europe for the obvious purpose of carrying out the provisions of the act of assembly relating to immigration, and his efforts seem to have been directed toward the accomplishment of two principal objects, namely, the starting of a current of emigration on the part of foreign laborers to South Carolina and the establishment of Charleston as a port of entry for such laborers, with a permanent line of boats of the North German Llcyd plying between that city and Bremen.

The general objects of Commissioner Watson's mission and the outlines of the methods to be employed were freely communicated to the (United States) Commissioner-General of Immigration and seem to have received at least his tacit approval, Mr. Watson at the same time (i. e., before his departure) expressing every desire to avoid a violation of Federal statutes and every intention of doing only what appeared permissible under those statutes. Mr. Watson's operations abroad were conducted openly; he kept in communication with the Commissioner-General of Immigration, and the Secretary of State had requested for him "such courteous facilitation of the purposes of his mission as may be in accordance with the laws of Belgium and due to the official agent of a constituent State of the American Union."

I pause long enough to say, in connection with the inquiry of the Senator from South Carolina, that not only is this document authenticated in the way I have indicated, but I wrote a letter some time ago to the Secretary of Commerce and Labor in behalf of a similar organization in the State of Georgia, where it was proposed by an immigration society to get up a fund to be placed in the hands of a State officer with a view to securing for the State of Georgia the best class of immigrants to meet a most trying and urgent demand for labor in order to prevent great sacrifice of the industries of that State. The letter which I wrote to him inquired whether or not—it was written before this decision was promulgated—the procurement of such a fund and the placing of it in the hands of a State officer would, in the opinion of the Department, be a violation of the statutes of the United States; and the particular copy of this report, which I hold in my hand, was sent to me with a letter by the Secretary of Commerce and Labor as an answer to my inquiry, stating that this was his construction of the law. So there can be no doubt whatever that this document is an authentic document and the official utterance of the Department of Commerce and Labor. I will resume the reading.

Commissioner Watson's procedure abroad appears to have been substantially this: He appointed resident representatives of his department at Ghent, Belgium; Middleburg, Holland; Berlin, Germany; Copenhagen, Denmark; Glasgow, Scotland, and Salford, England. These representatives he supplied with a variety of literature descriptive of South Carolina, its characteristics, climate, institutions, resources, industries, and opportunities, and particularly its labor conditions, including reference to the great demand therefor, to hours of labor, housing facilities, and wages paid. Advertisements were inserted in the newspapers containing more or less of this information, and persons interested were referred to the local representative of the State. As a result of these measures and of the personal efforts of Commissioner Watson and his agents nearly 500 laborers, principally from Belgium, Holland, and Germany, were collected, who agreed to migrate. In the meantime Commissioner Watson had arranged with the North German Lloyd to furnish a steamer to transport the passengers from Bremen to Charleston, which was ready to receive the laborers. Before sailing, each of the laborers signed a paper containing the scale of wages advertised as the prevailing rates paid in South Carolina, Commissioner Watson on his part agreeing to find employment for such emigrants at the rates stated and pay the passage money of each emigrant, first taking an obligation (subsequently canceled) that the sum advanced would be repaid to him by gradual deductions from the earnings of the emigrant within the ensuing year, and first satisfying the Belgian Government that the advertised scale of wages was correct and that any Belgians having just cause of dissatisfaction upon arrival would be returned at the expense of the State to their homes. Each emigrant carried with him to the United States a letter of introduction, addressed to Commissioner Watson and stating the laborer's name, the kind of employment in which he was experienced, and the occupation he desired to follow. This letter was intended to serve two purposes: First, to satisfy the immigrant inspectors that the bearer was

not likely to become a public charge; second, to assist in placing the laborer in the proper industry. In a number of cases considerable confusion and dissatisfaction resulted from misstatements in those letters as to the character of work the bearer was qualified to perform.

After the immigrants had been admitted to the United States by the officers of the Bureau of Immigration they were distributed among employers in South Carolina by the State commissioner, who appears to have acted on his own judgment as to what localities and persons they should be sent. It seems, also, that the commissioner was under no obligation to supply any particular laborer, or any laborers at all, to an employer solely because he had contributed to the immigration fund; and, further, that the immigrants themselves were free to reject any particular offer of employment that might be made to them. Most of the immigrants went to work in cotton mills, but a hundred or more who were unfitted for the mills were placed with farmers, contractors, and tradesmen generally. Out of the total number who emigrated, about twenty-two became dissatisfied and were returned to their homes at the expense of Commissioner Watson's fund.

The contract-labor laws, so-called (i. e., the acts of February 26, 1885, 23 Stat. L., 332; February 23, 1887, 24 Stat. L., 414; October 19, 1888, 25 Stat. L., 366; March 3, 1891, 26 Stat. L., 1048; February 5, 1893, 27 Stat. L., 449; March 3, 1893, 27 Stat. L., 569; August 18, 1894, 28 Stat. L., 372, 390; April 29, 1902, 32 Stat. L., 176; March 3, 1903, 32 Stat. L., 1213), bear directly upon three classes of persons: First, persons who import foreign labor or aid in the immigration thereof; second, masters or owners of vessels who knowingly assist in the importation or immigration of such labor, and, third, foreign laborers themselves coming to the United States under contract to perform labor, or in consequence of certain forbidden inducements held out to them. By the terms of the questions presented, a consideration of the provisions of these statutes is required only as they affect the first-mentioned class. No determination is called for with respect to the liability of shipowners or transportation companies for bringing over the immigrants in question, nor is any opinion required as to whether the immigrants themselves were lawfully admitted to the United States.

The provisions of the contract-labor laws directed against those who import foreign labor or aid in the immigration thereof, as enacted from time to time, are as follows.

Mr. President, it is important that what I am now to read shall be considered not only with reference to this construction put upon it by the Secretary of Commerce and Labor, but also as furnishing to the Senate in convenient form a statement of the law as it now exists. An examination of it will afford Senators an opportunity, by reference to the bill now before us as reported by the conference committee, to compare the two and to see wherein the bill as reported differs from this. They then will be able to see that the express provisions of the bill proposed in the report are evidently designed to meet the view and construction of this law as presented by the Secretary of Commerce and Labor and to put the law where he can no longer so construe it and where what has been done in the State of South Carolina can no longer be done for the purpose of supplying labor in that part of the country for the cotton mills or for other purposes.

Here the Secretary quotes a provision of the law with reference to contract labor, showing to what extent contract labor may be permitted to come in and pointing out in what particular this has been lawful in this particular transaction and how these immigrants could lawfully be brought into the State of South Carolina.

"SECTION 1. * * * That from and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia. (Act of Feb. 26, 1885.)

"SEC. 3. That for every violation of any of the provisions of section 1 of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any alien or aliens, foreigner or foreigners, into the United States, its Territories, or the District of Columbia, to perform labor or service of any kind under contract or agreement, express or implied, parol or special, with such alien or aliens, foreigner or foreigners, previous to becoming residents or citizens of the United States, shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States or by any person who shall first bring his action therefor, including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States, the proceeds to be paid into the Treasury of the United States. * * *" (Act of Feb. 26, 1885.)

"SEC. 3. That it shall be deemed a violation of said act of February 26, 1885, to assist or encourage the importation or migration of any alien by promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under a contract as contemplated by such act; and the penalties by said act imposed shall be applicable in such a case: *Provided*, This section shall not apply to States and immigration bureaus of States advertising the inducements they offer for immigration to such States." (Act of Mar. 3, 1891.)

Mr. President, if I have not in my haste misread the amendments to the present existing law which are found in the report of the conference committee, they are designed expressly and particularly to nullify the provisions of the present law.

Mr. LODGE. That is the law of 1885, which has been modified since by the law of 1903.

Mr. BACON. I am reading from the law of 1891 and not from the law of 1885.

"SEC. 6. That any person who shall bring into or land in the United States by vessel of otherwise, or who shall aid to bring into or land in the United States by vessel or otherwise, any alien not lawfully entitled to enter the United States shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment." (Act of Mar. 3, 1891.)

"SEC. 4. That it shall be unlawful for any person—

Of course these various sections that I am reading from are sections of the particular law from which they are quoted. That will be readily seen from the fact that the sections are numbered here irregularly—

"SEC. 4. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to assist or encourage the importation or migration of any alien into the United States, in pursuance of any offer solicitation, promise, or agreement, parol or special, expressed or implied, made previous to the importation of such alien to perform labor or service of any kind, skilled or unskilled, in the United States. (Act of Mar. 3, 1903.)

"SEC. 5. That for every violation of any of the provisions of section 4 of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any alien to the United States to perform labor or service of any kind by reason of any offer, solicitation, promise, or agreement, express or implied, parol or special, to or with such alien shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such alien thus promised labor or service of any kind as aforesaid, as debts of like amount are now recovered in the courts of the United States." * * * (Act of Mar. 3, 1903.)

"SEC. 6. That it shall be unlawful and be deemed a violation of section 4 of this act to assist or encourage the importation or migration of any alien by a promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under a promise or agreement as contemplated in section 2 of this act, and the penalties imposed by section 5 of this act shall be applicable to such a case: *Provided*, That this section shall not apply to States, or Territories, the District of Columbia, or places subject to the jurisdiction of the United States advertising the inducements they offer for immigration thereto, respectively." (Act of March 3, 1903.)

That is the act of March 3, 1903, along the line of the one which I previously read, which, as I say, it is the express purpose and design of the bill now before the Senate to practically repeal, and in so doing to deny to these States the opportunity hereafter to procure any labor which may be needed by the industries within their respective borders.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or who shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, any alien not duly admitted by an immigrant inspector, or not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding $1,000 for each and every alien so landed or attempted to be landed, or by imprisonment for a term not less than three months nor more than two years, or by both such fine and imprisonment." (Act of March 3, 1903.)

It will not be questioned, after reading the foregoing provisions, that the actions of Commissioner Watson, as recited above, if performed by a private person, would fall squarely within the condemnation of the statutes. Commissioner Watson was not acting in his private capacity, however, but as the representative of the State of South Carolina. The points to be considered therefore are (1) whether the provisions quoted were intended to control the action of States as well as persons; if not, (2) whether they were intended to affect State officers, acting under State authority; if so, (3) whether the actions in question fall within the prohibitions of the statutes, or are excepted from the operation thereof, either by express provision or by necessary intendment. Though stated separately, these questions can best be considered together.

To prevent any misunderstanding of what will be said later, it is desirable to state certain propositions, which may be regarded as established by judicial decision.

1. The power to regulate the immigration or importation of aliens into the United States is vested in the National Government to the exclusion of State authority. (Gibbons *v.* Ogden, 9 Wheat., 1, 216; Henderson *v.* Mayor, N. Y., 92 U. S., 259, 273, 274; Head Money Cases, 112 U. S., 580, 591; Ekiu *v.* United States, 142 U. S., 651, 659.)

2. The power to regulate the immigration or importation of aliens includes the power to exclude or expel. (Chinese Exclusion Case, 130 U. S., 581; Fong Yue Ting *v.* United States, 149 U. S., 698; Japanese Immigrant Case, 189 U. S., 86, 97.)

3. "Given to Congress the absolute power to exclude aliens, it may exclude some and admit others, and the reasons for its discrimination are not open to challenge in the courts. Given the power to exclude, it has the right to make that exclusion effective by punishing those who assist in introducing, or attempting to introduce, aliens in violation of its prohibition. The importation of alien laborers * * * is the act denounced. * * * If Congress has power to exclude such laborers, as by the cases cited it unquestionably has, it has the power to punish any who assist in their introduction." (Lees *v.* United States, 150 U. S., 476, 480; United States *v.* Craig, 28 F. R., 795.)

4. "It must always be borne in mind that the Constitution of the United States, 'and the laws which shall be made in pursuance thereof,' are 'the supreme law of the land,' and that this law is as much a part of the law of each State and as binding upon its authorities and people as its own local constitution and laws." (Farmers' Bank *v.* Dearing, 91 U. S., 29, 35; Dodge *v.* Woolsey, 18 How., 331, 347; Cohens *v.* Virginia, 6 Wheat., 264, 413; Worcester *v.* Georgia, 6 Pet., 515, 570; United States *v.* Cruikshanks, 92 U. S., 542, 550.)

In accordance with these principles, if the State of South Carolina had undertaken by legislative act to prescribe the conditions under which aliens might be admitted to her ports, to grant or deny the privilege of entry, to authorize measures which Congress had denounced, to forbid measures which Congress had sanctioned, or to "regulate" in any other way the immigration or importation of aliens, such legislation would be void. But she has done none of these things; she has enacted a law designed to encourage and assist the immigration of foreign laborers to her territory, on the assumption that this action on her part was not forbidden by Federal laws, leaving to those laws the determination of whether any foreign laborers seeking entry should be excluded. Congress, on the other hand, while it has passed numerous laws to regulate immigration, denying altogether admission to certain classes of aliens and penalizing certain acts of assistance or encouragement, has neither prohibited the immigration of aliens generally and without distinction nor proscribed all modes of assistance or encouragement by whomsoever employed. The question to be considered, therefore, is reduced to this: Has Congress forbidden the use of the particular mode of assistance or encouragement employed in the present case, notwithstanding that a State is the actor through its authorized agent?

First, as to the persons against whom the prohibitions of the contract-labor laws are directed.

It is altogether probable that the purpose of controlling the action of the several States never once occupied the mind of Congress throughout the whole course of this legislation except by way of disclaiming any such intention. An examination of the committee reports and the debates in both Houses of Congress in connection with the passage of the first and the last of this series of acts will show that the effect of these laws upon State action was never considered as a vital subject of legislation or as necessarily involved in the measures under discussion. (See CONG. REC., vol. 15, pt. 5, p. 5358, and pt. 6, p. 6059; House Report No. 982 and Senate Report No. 2119, 57th Cong., 1st sess.; CONG. REC., vol. 35, pt. 6, pp. 5757, 5768, 5813, 5833, 5985; vol. 36, pt. 1, pp. 27, 47, 96, 108, 128, 556, pt. 2, pp. 1112, 1172, pt. 3, pp. 2749, 2804, 2894, 2949, 3011.) "Capitalists," "corporations," "mine owners," "manufacturers," "railroads," "employers," were the words usually employed in describing importers of foreign labor; never words signifying a State or State officers. The truth seems to be that the idea of a State adopting as a governmental policy the promotion of immigration in aid of its industries was never broached, or, if broached, that the need of regulating the execution of such a policy was never considered. (See CONG. REC., vol. 22, pt. 3, pp. 2949, 2953, 2954.) The possibility of the original act (February 26, 1885) interfering with the work of State immigration bureaus was suggested by Senator MORGAN, who offered an amendment to prevent such a result. That the act would have this effect was denied and the amendment was defeated. (See CONG. REC., vol. 16, pt. 2, pp. 1790 et seq.)

Nor is it apparent that the conditions which led to the passage of these acts and the evils they were designed to remedy had any reference to such a situation as would move a State to act in the manner followed by South Carolina in the present case. "The situation which called for this statute," said the Supreme Court (143 U. S., 463), speaking of the contract-labor law of February 26, 1885, "was briefly but fully stated by Mr. Justice Brown, when, as district judge, he decided the case of United States *v.* Craig (28 F. R., 795, 798):

"The motives and history of the act are matters of common knowledge. It had become the practice for large capitalists in this country to contract with their agents abroad for the shipment of great numbers of an ignorant and servile class of foreign laborers, under contracts by which the employer agreed, upon the one hand, to prepay their passage, while, upon the other hand, the laborers agreed to work after their arrival for a certain time at a low rate of wages. The effect of this was to break down the labor market, and to reduce other laborers engaged in like occupations to the level of the assisted immigrant. The evil finally became so flagrant that an appeal was made to Congress for relief by the passage of the act in question, the design of which was to raise the standard of foreign immigrants and to discountenance the immigration of those who had not sufficient means in their own hands, or those of their friends, to pay their passage. While the act is undoubtedly, to a certain extent, a reversal of the traditional policy of the Government, it does not purport to inhibit or discourage the immigration of foreign laborers in general, but only the importation of such laborers under contracts made previous to their migration or importation."

The committee of the House in reporting the latest of these acts, that of March 3, 1903, said:

"Provision is also made in section 2 that the inhibition of the importation of skilled alien workmen under contract to perform service in the United States shall not operate to prevent bringing such workmen into the United States if labor of like kind unemployed can not be found in this country. The propriety, as well as the practical wisdom, of such a provision is obvious, since the purpose of legislation against alien contract labor is the protection of American workingmen from unfair competition by aliens who are willing to work for lower wages. As such competition, however, can become effective only by displacing the American workingman, it is clear that such purpose will not be defeated by permitting aliens under contract to be brought into the United States to fill places for which American labor unemployed can not be found; and, moreover, such a proviso is an encouragement to the extension of our industries." (House Report No. 982, 57th Cong., 1st sess., p. 3.)

And the committee of the Senate:

"If the labor imported does not displace American labor, whatever use it may be put to, it does not come within the purpose of the law for the protection of Americans from unfair competition; but, on the other hand, its exclusion, by retarding the growth and multiplication of our industries, would choke the opening of new avenues to American thrift, industry, and adaptability. This section provides, therefore, that alien labor may always be imported under contract to work in the United States 'if labor of like kind unemployed can not be found in this country.'" (Senate Report No. 2119, 57th Cong., 1st sess., p. 3.)

The evil here adverted to, and the evil deprecated throughout the debates in Congess, was the importation of cheap foreign labor for the purpose of supplanting American labor, resulting in a breaking down of the labor market and the reduction of native laborers to the level of foreign competitors. Just as home products of manufacture were protected by a tariff against the competition of cheaper products from abroad, so, it was repeatedly urged in debate, the home producer, the native worker, should be protected by exclusory immigration laws from the competition of foreign workmen, satisfied with lesser pay and contented with fewer rights. The ability to bring this inferior and undesirable class of laborers to this country at pleasure and whenever need should arise was thus a weapon in the hands of large employers in their disputes with their employees. Unfair and degrading competition, induced by the self-interest of the employer class, was the wrong to be remedied. In all this, however, there is no suggestion that the effort of a State to supply an actual deficiency in its working population from foreign sources, although primarily for the benefit of the owners of its private industries, was ever regarded as an evil or even contemplated at all. In Holy Trinity Church *v.* United States (143 U. S., 457, 463), where the question was whether a contract between a religious society and an alien clergyman, whereby the latter was to remove to this country and serve as pastor of a church, was within the prohibition of the contract-labor law of February 26, 1885, the Supreme Court said: "Another guide to the meaning of a statute is found in the evil which it is designed to remedy; and for this the court properly looks at contemporaneous events, the situation as it existed, and as it was pressed upon the attention of the legislative body;" and, after quoting the remarks of Justice Brown, supra, the court continued:

"It appears, also, from the petitions and in the testimony presented before the committees of Congress, that it was this cheap unskilled labor which was making the trouble, and the influx of which Congress sought to prevent. It was never suggested that we had in this country a surplus of brain toilers, and, least of all, that the market for the services of Christian ministers was depressed by foreign competition. Those were matters to which the attention of Congress, or of the people, was not directed. So far, then, as the evil which was sought to be remedied interprets the statute, it also guides to an exclusion of this contract from the penalties of the act."

But if it be said, nevertheless, that Congress must be presumed to have intended to prohibit States as well as others, and official as well as private persons, from assisting foreign laborers to immigrate, since assisted immigration is the thing forbidden and forbidden in general and unqualified terms, the answer is twofold: First, whatever the evil a statute is designed to suppress the means of suppressing it are confined to those pointed out by the words of the act; and, second, a penal statute will be held to apply only to those who are clearly embraced within its terms. On the first point the Supreme Court has said:

"We recognize the value of the rule of construing statutes with reference to the evil they were designed to suppress as an important aid in ascertaining the meaning of language in them which is ambiguous and equally susceptible of conflicting constructions, but this court has repeatedly held that this rule does not apply to instances which are not embraced in the language employed in the statute or implied from a fair interpretation of its context, even though they may involve the same mischief which the statute was designed to suppress. (United States *v.* Chase, 135 U. S., 255, 261.)"

And Judge Wallace, of the circuit court, in considering whether a railroad company which knowingly employed in its office in New York, near the Canadian border, a person who resided in Canada and came daily to his work in the United States had violated the contract-labor law, said:

"It may be that such a case as this is within the mischief which the promotors of the law intended to remedy, but it is not within the ordinary import of the words of the statute. (United States *v.* Michigan Central R. R. Co., 48 F. R., 365, 366.)"

On the second point, the highly penal character of these laws was declared by the Supreme Court in Lees *v.* United States (150 U. S., 476, 480); and in United States *v.* Gay (80 F. R., 254, 255) it was said:

"The statute in question is highly penal and must be so construed as to bring within its condemnation only those who are shown by the direct and positive averments of the declaration to be embraced within the terms of the law. It will not be so construed as to include cases which, although within the letter, are not within the spirit of the law."

Turning to the actual language employed by Congress, it will be found that the prohibitions of the several acts are invariably directed against "any person," or "any person, partnership, company, or corporation." Obviously, the only one of these terms which could possibly be held to apply to a State, or a State officer acting in its behalf, is the word "person." While a State or the United States may be included in the word "person" (Bishop, Written Laws, sec. 212), such is not the usual construction, by reason of the presumption that the legislative power has primarily in view rules regulating the conduct and affairs of individuals and not the affairs of government. (Endlich, Stat. Interp., sec. 161; see also Bishop, Written Laws, sec. 103.) The test is said to depend on "the object of the enactment, the purpose it is to serve, the mischiefs it is to remedy, and the consequences that are to follow, starting with the fair and natural presumption that, primarily, the legislature intended to legislate upon the rights and affairs of individuals only." (Endlich, Stat. Interp., sec. 167.) In United States *v.* Fox (94 U. S., 315, 321) the Supreme Court, considering a statute of New York which provided that a devise of lands might be made "to any *person* capable by law of holding real estate," and where the question was whether the United States could take under such a device, said:

"The term 'person' as here used applies to natural persons and also to artificial person—bodies politic, deriving their existence and powers from legislation—but can not be so extended as to include within its meaning the Federal Government. It would require an express definition to that effect to give it a sense thus extended. And the term 'corporation' in the statute applies only to such corporations as are created under the laws of the State."

So, too, in McBride *v.* Commissioners (44 F. R., 17, 18) it was said:

"This statute does, in effect, authorize an injunction to prevent waste in cases where two or more persons are opposing claimants to the same tract of land under the land laws of the United States. But it is not applicable to this case, for, although this is a case in which there are opposing claimants to the same tract of land, under the laws of the United States, inasmuch as the plaintiff is endeavoring to acquire it through the pretense of an intention on his part of working it as a mine, and it may be assumed as a matter of law, although it is not alleged in the bill, that the State of Washington claims it as a part of the grant made to it by act of Congress for school purposes, still it does not come within the letter of the act, because the opposing claimants are not two or more persons. One of the opposing claimants is the State of Washington, and it is not a 'person' within the ordinary or legal definition of the word. The court of appeals of New York, in a case in which the definition of the word was of vital importance and in which its decision was afterwards on appeal affirmed by the Supreme Court of the United States, held that the word 'person' does not, in its ordinary or legal definition, include either a State or a nation."

Even more directly in point is the case of Lowenstein *v.* Evans (69 F. R., 908, 911), which involved a construction of the Federal antitrust act of July 2, 1890, denouncing contracts, combinations, and conspiracies in restraint of trade and making it a misdemeanor for any "person" to monopolize or attempt to monopolize any part of the trade or commerce among the several States. The court sustained a demurrer to a suit filed by a liquor dealer in South Carolina under the seventh section of the act against the members of the State board of control, under the State dispensary law, alleging that the State monopoly of the liquor traffic was in violation of the act. In the course of its opinion the court said:

"The section of the act of 1890 sued upon gives a right of action for any injury by any other person or corporation. The State is not a corporation. A corporation is a creature of the sovereign power, deriving its life from its creator. The State is a sovereign having no derivative powers, exercising its sovereignty by divine right. The State gets none of its powers from the General Government. It has bound itself by compact with the other sovereign States not to exercise certain of its sovereign rights, and has conceded these to the Union, but in every other respect it retains all its sovereignty which existed anterior to and independent of the Union. Nor can it be said that the State is a person in the sense of this act."

From the foregoing considerations—that is to say, from the fact that neither the necessity nor the occasion for regulating the action of the several States with regard to the importation of foreign labor occupied the attention of Congress during the passage of the acts; that the mischief intended to be cured bore no relation to the situation of any State finding itself in need of foreign workers to supply an actual deficiency of domestic hands; that the terms employed in the acts do not expressly apply to States or State bureaus or officers; that the acts are highly penal, and as such must be construed strictly and held to apply only to those who are clearly embraced within their terms; that the terms actually used, "any person, partnership, company, or corporation," can not without violence to every reasonable presumption be held to embrace a State or its duly constituted agents—from all this I conclude that the prohibitions of the contract-labor laws have no direct application either to a State or to an officer of a State acting in its behalf and pursuant to its authority.

For this narrowing of the scope of general and unqualified provisions, if it be deemed such, there is the highest authority. In the Trinity Church case, already quoted on another point, it was held (p. 459):

"It is a familiar rule that a thing may be within the letter of the statute and yet not within the statute because not within its spirit nor within the intention of its makers. This has been often asserted, and the reports are full of cases illustrating its application. This is not the substitution of the will of the judge for that of the legislator, for frequently words of general meaning are used in a statute, words broad enough to include an act in question, and yet a consideration of the whole legislation, or of the circumstances surrounding its enactment, or of the absurd results which follow from giving such broad meaning to the words, makes it unreasonable to believe that the legislator intended to include the particular act. As said in Plowden, 205: 'From which cases it appears that the sages of the law heretofore have construed statutes quite contrary to the letter in some appearance, and those statutes which comprehend all things in the letter they have expounded to extend to but some things, and those which generally prohibit all people from doing such an act they have interpreted to permit some people to do it, and those which include every person in the letter they have adjudged to reach to some persons only, which expositions have always been founded upon the intent of the legislature, which they have collected sometimes by considering the cause and necessity of making the act, sometimes by comparing one part of the act with another, and sometimes by foreign circumstances.'"

Note should be made that in thus holding the contract-labor laws inapplicable to the official agent of a State under the circumstances of the present case, it is not pretended that, if a law of Congress applied to him and he committed an act in violation of that law, either his official position or a statutory warrant of his own State would be a valid defense. (Osborn *v.* Bank, 9 Wheat., 738; Poindexter *v.* Greenhau, 114 U. S., 284; Pennoyer *v.* McConnaughy, 140 U. S., 10.) All that is meant is that if it is lawful for a State, or one of the duly established departments of its government, to take certain measures, since a State can act only through natural persons, it is lawful to commission an officer to act for it and perform such duties as its legislature, within the limits of the State's authority, may prescribe. The distinction may be illustrated by the case of United States *v.* Harris (78 F. R., 290), where an action for a penalty was brought against the receivers of a railroad company for a violation of section 4388 of the Revised Statutes regarding the transportation of live stock, which was directed against "any company, owner, or custodian of such animals." The court said:

"The construction of the statute, and the proceeding under it, are governed by the rules of the criminal law as fully as if the proceeding was by indictment. The exclusive purpose of the section is to inflict punishment. Those named as liable to such punishment are the railroad company and the owners and custodians of the animals. The defendants here sued are neither. What reason, therefore, is there for supposing that the suit can be maintained? The language must receive a strict construction, confined to its obvious import. (U. S. *v.* Hartwell, 6 Wall., 395.; U. S. *v.* Wiltberger, 5 Wheat., 76; Grooms *v.* Hannon, 59 Ala., 510; Com. *v.* Wells, 110 Pa. St., 463, 1 Atl., 310.) No straining, however desperate, would be adequate to make the terms embrace the defendants. They are simply the court's officers, appointed to execute its orders. The property is in custody of the court and is controlled and managed by it through these officers. It would be immaterial to say that in this view no one can be punished under the section during such custody, if it were true. It would not be true, however, for the owners, as well as those in direct charge of the stock, may be so punished during such custody. If others also should be punished, Congress should provide for it."

Passing to a consideration of what was actually done in the present case, with a view of ascertaining whether the course pursued by Commissioner Watson was permissible on the part of a State official under the legislation of Congress. The original act of February 26, 1885, declared it unlawful for any person "to prepay the transportation or in any way assist or encourage the importation or migration" of any aliens or foreigners into the United States "under contract or agreement, parol or special, express or implied, made previous to the importation or migration * * * to perform labor or service of any kind in the United States." This provision was expanded by the act of March 3, 1903, section 4, which made it unlawful for any person "to prepay the transportation or in any way assist or encourage the importation or migration of any alien into the United States, in pursuance of any offer, solicitation, promise, or agreement, parol or special, expressed or implied, made previous to the importation of such alien to perform labor or service of any kind, skilled or unskilled, in the United States." The earlier of these two provisions has frequently been the subject of judicial decision and its effect has been fully elucidated. (U. S. *v.* Craig, 28 F. R., 799; U. S. *v.* Bonneman, 41 F. R., 751; U. S. *v.* Edgar, 45 F. R., 44, 48 F. R., 93; U. S. *v.* Michigan Central R. R. Co., 48 F. R., 365; U. S. *v.* Great Falls R. R. Co., 53 F. R., 77; Moller *v.* U. S., 57 F. R., 494; Lees *v.* U. S., 150 U. S., 480; U. S. *v.* Bannister, 70 F. R. 45; U. S. *v.* Gay, 80 F. R., 254; U. S. *v.* McElroy, 115 F. R., 253; U. S. *v.* River Spinning Co., 70 F. R., 978.) Not so with the later provision. No case has been found which expressly considers what is meant by the altered phraseology or determines the precise force and effect of the new terms. It has never been determined, for example, what is meant by assisting the importation or migration of aliens "in pursuance" of any offer, etc., although the difficulty of applying this phrase in practice was recognized by the lawmakers during the debates in Congress. Nor has there been any decision, so far as known, as to what is covered by "any offer, solicitation, promise, or agreement" to perform labor or service in the United States. Whether it would be held, for instance, that the offer, solicitation, promise, or agreement, to be unlawful, must be made by some responsible person, who is to furnish the employment, in his own behalf and interest or as the duly authorized agent of another, or whether it would be equally unlawful if made by a wholly disinterested person, who has no employment to give, either for himself or for anyone else, and who acts, say, from motives of humanity or from his personal views as to the needs of particular localities; and again, whether the offer or solicitation to perform labor or service does not necessarily imply that employment of some specified kind, at some definite place, for some particular employer, and at some fixed compensation, will await the immigrant upon his arrival—how the courts would answer these questions it is hard to say, since they appear never to have been presented. But in the absence of judicial determination, relying solely on the language of the statute, I should not hesitate to say that an Executive Department charged with the enforcement of the act would be bound to hold that the course of action followed by Commissioner Watson fell within the condemnation of the law as it now stands, were it not for the fact, as already pointed out, that States and State officials were not contemplated in the passage of the act, and for the further fact that the exemption in favor of States and Territories contained in the sixth section is not without a bearing on the provision in question. Section 6 of the act of March 3, 1903, provides:

"That it shall be unlawful and be deemed a violation of section 4 of this act to assist or encourage the importation or migration of any alien by a promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under a promise or agreement as contemplated in section 2 of this act, and the penalties imposed by section 5 of this act shall be applicable to such a case: *Provided*, That this section shall not apply to States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States advertising the inducements they offer for immigration thereto, respectively."

The intimate relation between this section and section 4, denouncing offers, solicitations, promises, or agreements, is indicated by the fact that both provisions were treated together by the committee of the House of Representatives in reporting the bill. The committee said:

"Section 4 follows section 1 of the act of February 26, 1885, known as the 'original alien contract-labor law,' making the importation of aliens under contract or agreement to perform labor or service of any kind in the United States unlawful, but omits the word 'contract,' substituting therefor the words 'offer, solicitation, promise.' This change was made to meet the rulings of the courts, which held that in every case of alleged violation of the law all the elements of a binding contract must be proven to bring offenders within the meaning of the act. Such rulings have destroyed the efficacy of the act, as under them aliens can be imported with impunity upon the suggestion or assurance that employment in this country awaits them. Moreover, Congress itself has recognized in section 3 of the act of March 3, 1891, the necessity of broadening the language of the act so as to cover the evil sought to be prevented, for it there makes the migration of any alien to the United States in consequence of an advertisement in any foreign country promising work in this country a violation of the law. Throughout this bill, therefore, the terms 'offer, solicitation, promise' are used in lieu of the word 'contract' contained in the present law." (House Report No. 982, 57th Cong., 1st sess., pp. 3, 4.)

Moreover, in the only case which has been found dealing with the prohibition against promises of employment through advertisements, the reasoning of the court seems to be as pertinent to the one section as to the other. The question being whether a manufacturing firm, having inserted an advertisement abroad and received into its employ foreign laborers coming in response thereto, had violated the law, the court said:

"It was the obvious purpose of the amendatory act to remedy the defects in the preexisting statute in two particulars. Under the preexisting statute the penalty did not accrue unless (1) the alien had, previous to his migration, entered into a contract to perform labor or service in this country, and (2) had actually migrated here, and (3) the defendant had, by prepayment of transportation or otherwise, encouraged or assisted his migration, knowing that such a contract had been entered into. * * * The statute was capable of being read so that the penalty would not accrue from the making of a previous contract with the alien by the defendant himself if the alien's migration had not been otherwise encouraged by the defendant, as by the prepayment of his transportation or some analogous act, though it was capable of a reading by which the contract, if made with the defendant, might be deemed a sufficient assistance or encouragement. The amendment was intended to dispense with the necessity of proving that there had been a contract with the alien 'made previous to the importation or migration,' or that there had been any other assistance or encouragement to his migration than a promise of employment. It adds to the acts penalized by the former statute another and makes it penal to 'assist or encourage' the migration 'by promise of employment through advertisement.' The word 'promise' is used in the sense in which advertisements commonly promise employment to applicants. Under the former statute there could be no antecedent contract by an advertisement, however explicit the terms of the promise might be, because the promise could not, until the alien entered upon its performance, become a contract. Under the present, no antecedent contract is necessary, and it would seem to suffice if there is a promise of em-

ployment sufficiently explicit to induce those to whom it is addressed to apply to some particular employer in the expectation of receiving employment of a specified kind at specified compensation. The proviso indicates that Congress did not use the word 'promise' in its strict legal meaning, but rather in the sense of an assurance or inducement to encourage aliens to migrate. The proviso withdraws from the operation of the section the 'inducements advertised by States and immigration bureaus of States offered for immigration to such States.' These advertisements do not ordinarily contain promises of employment in the nature of specific proposals, but contain assurances of opportunity for employment and of the remuneration that may be expected. The office of a proviso is to carve an exemption out of the enacting clause, to except something which would otherwise have been within it (Wayman *v.* Southard, 10 Wheat., 30, 6 L. Ed., 253; Minis *v.* United States, 15 Pet., 423, 10 L. Ed., 791); and this proviso denotes the intention of Congress to exempt States and their immigration bureaus from a liability which might otherwise be incurred by the advertisement of their inducements to immigrants. We are of opinion that any assurance of probable employment, definite as to the kind, the place, and the rate of wages, is a promise of employment within the meaning of the statute. If this conclusion is correct, the advertisement published by the defendant was within the interdicted class. Obviously both the defendant and the alien regarded the advertisement as holding out a promise of employment specific enough to induce the alien to migrate and accomplish the purpose intended by the defendant. The question which was presented by the demurrer is not altogether free from doubt, especially in view of the very strict construction which the courts have placed upon the alien contract labor law; but we are constrained to the conclusion that the complaint was sufficient." (United States *v.* Baltic Mills Co., 124 F. R., 38, 40.)

It thus appears that the object of both sections is substantially the same, namely, to prohibit not only the importation of foreign laborers "under contract," which the strict interpretation of the courts, limiting the import of the word "contract" to its technical meaning, rendered difficult of enforcement, but the importation of such laborers in pursuance of any promises or inducements held out to them, as by advertisement, which, though not amounting to a contract, are nevertheless sufficient to bring about the immigration of the alien and to secure his services. So far as the prohibition against assisting the importation or immigration of foreign laborers by promise of employment through advertisements abroad is concerned, States and Territories are expressly excepted from the operation of the law. But does not the exception go further and exempt States and Territories, at least by implication, from the operation of the section directed against assisting the importation or migration of foreign laborers in pursuance of any offer, solicitation, promise, or agreement to perform labor in the United States? There would seem to be no reason on the score of policy why the exception should not apply in one case as well as the other, in view of the common object of both provisions. This conclusion is almost unavoidable when consideration is given to what is necessarily involved in the exception as expressed. By the terms of the proviso States and Territories may offer inducements or make promises to foreign laborers by advertisement printed and published in foreign countries, and they are not forbidden to "assist" in the immigration of the foreign laborers to whom such offers are addressed. What difference in principle can there be between soliciting laborers to come to the United States by advertisement and by letter or word of mouth? If the laborer responds to an appeal made to him by advertisement, he is just as much an imported alien laborer as if he yielded to any other form of solicitation, and comes just as actively into competition with domestic workmen. The fact is that by this proviso Congress has distinctly authorized States and Territories to encourage the immigration of foreign laborers when such a policy should seem to be required by local industrial conditions. And since Congress must have contemplated the actual immigration and employment of such laborers, it must be held to have authorized also the adoption and use of all reasonable and necessary measures looking to the assembling of such emigrants abroad, their transportation to this country, and their distribution among the industries of the State or Territory—such practical measures, in other words, as may be appropriate for the protection of the immigrant on the one hand and for needs of the State or Territory on the other. A construction of this proviso or exception which would restrict its application to the particular section in which it stands and allow to it no independent operation is opposed to the clearest canons of statutory interpretations. While "the office of a proviso, generally, is either to except something from the enacting clause or to qualify or restrain its generalities or to exclude some possible ground of misinterpretation of it as extending to cases not intended by the legislature to be brought within its purview" (Minis *v.* United States, 15 Pet., 423, 445), yet in practice it is not always so restricted, and, where the manifest legislative intention requires, it will be held both to limit the effect of other sections (Telephone Company *v.* Manning, 186 U. S., 238, 242; In re Scheld, 104 F. R., 870; In re Lange, 91 F. R., 361) and to operate as "an independent proposition" (United States *v.* Babbit, 66 U. S., 55, 61; Banking Co. *v.* Smith, 128 U. S., 174, 181). As said by the Attorney-General (21 Op. At. Gen., 259), exceptions and provisos "are apt to be thrown in upon a Congressional debate or in committee without full appreciation of the scope of the section under consideration, but in order to protect some particular class from any possibility of embarrassment," and, as said by Judge Lurton, of the circuit court of appeals:

"Such clauses are often introduced from excessive caution and for the purpose of preventing a possible misinterpretation of the act by including therein that which was not intended. The rule is, therefore, not one of universal obligation, and must yield to the cardinal rule which requires a court to give effect to the general intent, if that can be discovered within the four corners of the act. If such general intention would be defeated by construing the act as embracing everything of the same general description as those particularly excepted therefrom, an arbitrary application of the rule is not admissible." (Baggaley *v.* Iron Co., 90 F. R., 636, 638.)

The rule on this subject and the reason for it are admirably stated by Bishop:

"The doctrine is that when from any of the recognized reasons the main provisions of a statute are to be construed strictly the same reasons require those which create exceptions, exemptions, and the like to be interpreted liberally, and beyond this the strict construction as well as, and even more than, the liberal excepts and exempts, without the aid of any statutory words whatever, while within the terms of a statute, is not within its motives and purposes. The most familiar applications of this doctrine are to criminal statutes, and from them the illustrations of this chapter will be chiefly drawn. But it is applied equally to all other statutes which are strictly construed. Thus, * * * while a criminal statute is to be construed strictly in those parts which are against defendants, its construction is to be liberal in those which are in their favor—that is, for their ease or exemption, * * * in favor of accused persons—criminal statutes may be either, according to the form of the provision, contracted or expanded by interpretation in their meanings, so as to exempt from punishment those who are not within their spirit and purpose, while at the same time, as the last section shows and as explained in the last chapter, they can never be expanded against the accused so as to bring within their penalties any person who is not within their letter. * * * In the nature of things statutes can not be so framed as, by express exemption, to provide for every possible unforeseen and even foreseen case thereafter to arise which, while within the terms of their main provisions, is still outside of their spirit and purpose. And what can not be done the courts should understand as not having been attempted. Therefore, though a case in judgment is within the letter of a statute, if they can see that it is exceptional to its spirit and purpose, and so the lawmakers did not mean punishment for it, they ought not to inflict the punishment. By excepting it in the interpretation they fulfill their highest duty, which is to carry out the true legislative intent." (Bishop, Written Laws, secs. 226, 230, 236.)

Replying to your letter, therefore, in the light of all the foregoing considerations, I have the honor to say that, in my opinion, the plan pursued by Commissioner Watson, as it is shown to have been carried out, does not involve a violation of the immigration laws of the United States prohibiting the importation of contract laborers; and I am further of opinion that there has been no misapplication of the exemption in favor of States, Territories, and the District of Columbia, contained in section 6 of the act of March 3, 1903.

The views taken in reaching this conclusion have made it unnecessary to consider questions which might arise in an ordinary case involving the contract-labor laws, as, for example, whether the payment by "another" of the passage money of foreign laborers induced to come to this country to perform labor would of itself constitute a violation of law. And it is proper to add that this opinion is based altogether upon the facts of the particular case, as disclosed by the record referred to at the outset. It is obvious that very different questions would arise if the facts were that Commissioner Watson, instead of acting independently and as the representative of the State in behalf of the general body of its citizens and of its industries as a whole, acted in reality only under color of State authority and in fact as the agent of particular persons, firms, or interests; that the contributions made by private persons toward the expenses of the department of immigration, instead of being merely added to the general fund appropriated by the State, to be expended at the sole discretion of State officials, were used to assist in the immigration of foreign laborers to perform labor for the particular persons who so contributed; that Commissioner Watson, instead of being wholly free to act for the benefit of the State at large, was actually under the control of special interests and bound to act as they should direct; or that the immigrants themselves, instead of being entirely at liberty to accept or reject any employment provided for them, were coerced into working for particular employers. Such circumstances, and others which readily suggest themselves, would materially alter the complexion of the case, and are not, therefore, to be considered as covered by this opinion.

Respectfully submitted.

CHARLES EARL, *Solicitor.*

The SECRETARY OF COMMERCE AND LABOR.

Mr. PERKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from California?

Mr. BACON. I do.

Mr. PERKINS. If it will not interrupt the Senator from Georgia, I should like to make a suggestion. I have listened to him, as I always do, with much interest and instruction, but it is not clear to me, from his remarks, how this conference report discriminates against one part of the country in favor of the Pacific coast States.

Mr. BACON. Mr. President, I will with pleasure——

Mr. PERKINS. I want to say, in connection with that, that it seems to me we ought to restrict immigration. We have been absorbing a million immigrants into this country during the past year or more, and it seems to me it is wise policy and statesmanship for us to only invite those to come here who honor our institutions and have a veneration for a republican form of government.

Mr. BACON. Mr. President, I will with pleasure endeavor to answer the Senator, not at length, but briefly.

The Senator from California, Mr. President, asks me in what particular the bill reported by the conferees discriminates in favor of the Pacific coast and against another section—I will say the South—and then the Senator, before hearing the reply, announced what he considers to be the correct rule as to the exclusion of immigrants, which, of course, does not particularly relate to the inquiry he propounded to me, except in so far as it may be controlled by a general principle and not by the conditions to which his inquiry is directed.

Mr. President, this bill, so far as it relates to the Pacific coast, is distinctively in the interest of the Pacific coast, so far as that interest can be gathered from the attitude of those who so ably represent it upon this floor. In other words, the interest of the Pacific coast, as interpreted and represented by these able and distinguished Senators, is to interpose a barrier between that coast and the Asiatic countries which shall prevent the influx into the States bordering upon the Pacific Ocean and those neighboring to it of a class of population which is deemed by them to be injurious in its general interests and in conflict with the interests of the laboring and mechanic classes of that country; not only so, sir, but, far more than that, pernicious, and,

if not checked, absolutely destructive of the civilization of their country. I do not think I overstate the case when I say that that is the attitude occupied by those Senators and that which is recognized by the country at large, with which we are all in sympathy and in the accomplishment of which we are all ready to join with the Senators to protect them against this very great evil.

I am not sufficiently familiar with the conditions there to say whether or not this bill will accomplish that purpose, but that is the design of it. It is distinctively in the interest of the Pacific coast, and, I may say for myself, without regard to details of which I am not capable of judging, one properly directed to a laudable end. That is one side. That is the presentation of this bill as it affects the Pacific coast.

Now, how does it present itself as it affects the South? The conditions in the West and on the Pacific coast are such that it is not to their interest to have this influx of Japanese labor. It is not only not to their interest to have such an influx of this particular class of labor, but it is considered to be destructive of all that is desirable in the development and civilization of that country.

On the other hand, so far from having at the South the labor which we require, the industries of the South are languishing—the industries of the South are more than languishing; some of them are absolutely paralyzed, because of the fact that we can not secure the labor which is required to keep our industries in motion.

Here is the report from which I have been reading, and the reading of which I have suspended in order to reply to the inquiry of the Senator from California. Here is the report of the Secretary of Commerce and Labor, who says that upon an examination it was ascertained that 20 per cent—one-fifth—of the spindles of South Carolina were absolutely still, because there was no labor to keep them in motion. What is true of the State of South Carolina is true of North Carolina and true of Georgia, the three States which, more than any others in the South, are engaged in the manufacture of cotton—a fact of peculiar pertinency when the fact is known that one-half of all the cotton manufactured in the United States is manufactured in the South. And what is true of cotton mills is true of all other industries. The mines are comparatively unworked, or to a large degree unworked, because there are no laborers to do the work. The fields are in large measure untilled, because there is no sufficiency of labor to till them. Many furnaces are cold. In every branch of industry it is the same thing in greater or less degree. It is only with the greatest difficulty that in any department of industry in the South labor can be obtained, and in no department of labor is there a sufficiency of labor.

Senators, conditions there are not like they are anywhere else. We have peculiar conditions that make it difficult for us to secure labor. The harvest is great, but the laborers are few, and we can not get them in that portion of the country. Take the cotton-mill industry. The colored people can not be employed in the cotton mills. Why, I am not able to tell you, because I have no technical knowledge in the matter.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BACON. Certainly.

Mr. BEVERIDGE. I do not want to prolong this discussion at all, but I can tell the Senator why the colored people can not be employed in the Southern cotton mills. It is because the white people will not work with them.

Mr. BACON. Oh, the Senator is entirely mistaken.

Mr. BEVERIDGE. I can produce testimony to that effect.

Mr. BACON. I possibly misunderstood the Senator. I understood him to say that the white people would not work them.

Mr. BEVERIDGE. No; I said "with" them.

Mr. BACON. Mr. President, if that is the case, it would be a simple matter to have cotton mills in which there was only negro labor, if that were all. But it has been tried time after time. Can anybody believe that, with 20 per cent of the spindles of the State idle, with all that capital lying eating itself up and rusting itself away, if negro labor could be employed it would not be employed? It is true the white people will not work with the negro in the mills, but it is not necessary, in order that the mill industry should be carried on, that the two races should be worked together. They could be worked in separate factories. It has been tried by those who are most anxious to make it a success, and it has been demonstrated that negro labor can not be successfully employed in the cotton-milling industry. That is how we are situated.

But this condition affects all other industries as well. The presence of this great negro population deters white immigration. They do not care to come there voluntarily. You have to go and seek them in order to secure them. You have got to remove the prejudice which naturally keeps white men away from a country where negroes are thought to come in competition with them, if not into direct competition with the particular labor upon which they are to be engaged, then in the general industries of the country. So far as the white labor of the South is concerned which is available for this purpose, it is practically exhausted; it is exhausted, and the mills of the South are to-day in excess, so far as their capacity for production is concerned, of the possibility of getting labor to keep them in motion. As I said, it is not confined to the cotton mills. It is so in every branch of industry, and this very week or next week, I am not certain which, there is to be in the city in which I live a great convention of people engaged in all the various branches of industry to try to devise means by which, without violating the laws of the United States, immigrants can be brought into the country to keep our industries in motion.

If all the Republican Senators were in their seats to-day and could have this presentation made to them, that 20 per cent, one-fifth, of the industries of the South are to-day idle because of the impossibility of getting labor, would they say they would pass a bill that would make it even more difficult than it is now to get labor, and that we shall not have the advantage presented by existing law? The present law, as I was proceeding to show by reading from the decision of the Secretary of Commerce and Labor, now gives us some slight opportunity. Would the Republican Senators say that that small door shall be shut to us, and that in face of the assertion which I have read to you from the Secretary of Commerce and Labor that one-fifth of our spindles are to-day idle?

So far from enlarging our opportunities and giving us a chance to keep our industries in motion, the slight opportunities that we now have are to be taken away from us, and this is brought here in a conference report. This is brought here in a conference report attached to another matter of paramount importance in order that the greater and more important matter shall carry it through, when it would not go through otherwise by the vote of any Senators who understood it. Am I putting it too strongly when I say so?

Mr. President, have I answered the Senator from California when he asked me how this bill will discriminate in favor of the Pacific coast and against the South? If I am incorrect in my statement that this bill, which is now under consideration, presented here by the conference report, does seek to change that existing law under which these immigrants have so far been obtained and under which others will be obtained, then what I am saying is largely out of place. If I am in error I have the excuse of saying that I have had no chance to read this bill except, as the saying is, with my finger, running it down the page and catching a word here and a word there. But I do not think I am mistaken. Before this debate is through—I can not do it now, but I am going to have the opportunity to do it, if some one else does not do it—I shall point out with particularity how this bill has been framed and designed purposely to meet this ruling of the Secretary of Commerce and Labor and with the design to take away from southern industries of all kinds the opportunities which are now given them under existing law to supply even a small modicum of the labor which they require.

Mr. BEVERIDGE. Has the Senator from Georgia concluded?

Mr. BACON. I yield to the Senator from Indiana with great pleasure.

Mr. BEVERIDGE. No; I thought the Senator had concluded his speech, and I was going——

Mr. BACON. Oh, no.

Mr. BEVERIDGE. I beg pardon.

Mr. BACON. The Senator from Indiana underestimates altogether the scope of the remarks which I intend to submit to the Senate.

Mr. TILLMAN. Will the Senator from Georgia allow me?

Mr. BACON. I will, with pleasure. I was about to suggest to the Senator that if he wishes to put anything else in——

Mr. TILLMAN. Not now. I am getting ready for a week or ten days or something like that. Until I get some consideration of the justice and fairness of a request for an opportunity to read an important bill before we are called upon to vote on it I shall be prepared to fight a little while longer. I was called out a moment ago——

Mr. DILLINGHAM. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Vermont?

Mr. TILLMAN. I will in a moment. While I was away I understood a question was asked by the Senator from Indiana as to why negroes do not work in cotton mills.

Mr. BACON. There was such a question asked, and I endeavored to answer it in this way, I will state to the Senator, in order that he may supplement the answer. I said I could not state the reason particularly, because I had no technical knowledge; that I could only state the fact that with every inducement to avail themselves of negro labor, if it could be done, those who had honestly and repeatedly made the effort to have negro labor in cotton mills had found it impracticable to utilize it, as it could not be successfully done. I shall be glad to have the Senator from South Carolina supplement that answer.

Mr. TILLMAN. I will supplement that by a statement of fact, which can be substantiated, that at least two mills in the South, one in my State and one in North Carolina, have been built and organized with a view to the utilization of negroes alone, and it was found that the habits of work and the characteristics of the colored people, their inability to maintain the continued alertness of mind necessary to care for the machinery, made it absolutely impossible to run a mill with colored people; that the racial disability prohibited their employment.

Mr. BACON. Mr. President, if I have not sufficiently answered the Senator from California in the inquiry he has made of me in what manner this bill discriminates between the Pacific coast and the interests of the Pacific coast and the interests of the South, I will be glad if he will point out in what particular I have failed to do so, and I will endeavor to add to it. I judge by the Senator's silence that he recognizes the correctness of the statement which I made, that this is a bill which, while not intended by those particularly interested to prejudice the South, is a bill which in its practical workings takes care of the interests of the Pacific coast, and that on the contrary the conferees have lugged in here and put upon it a provision which is absolutely destructive of the interests of the South.

Mr. DILLINGHAM. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Vermont?

Mr. BACON. I do.

Mr. DILLINGHAM. Has the Senator pointed out the clause to which he objects?

Mr. BACON. I thought I had.

Mr. DILLINGHAM. The clause which he says the conferees have "lugged" in here.

Mr. BACON. Possibly "lugged" was an improper word. If the Senator criticises that word I withdraw it.

Mr. DILLINGHAM. I have been listening very attentively to the Senator to find out what clause it was in the bill to which he objects and which he thinks discriminates against the South.

Mr. BACON. I am endeavoring to point it out. I am about to read now from the decision of the Secretary of Commerce and Labor in which he says and rules that as the law now stands it is practicable to do certain things through the agent of a State, and that that agent of the State can avail himself not only of the money of the State, but that it is perfectly lawful for him to receive from associations and private individuals money which he may use for that purpose. As to the bill reported by the conference committee, with only the opportunity to read it with my finger, I have found, as I conceive, provisions in it which are intended so to change existing law that that can not be done.

Mr. DILLINGHAM. I will be very glad if the Senator will point out that provision which he says——

Mr. BACON. Before I get through I will read the whole law, so as to be sure to point it out.

Mr. LODGE. What are those provisions?

Mr. BACON. I say I will, with great pleasure, before I get through, read the entire law.

Mr. LODGE. The Senator is unable to point them out.

Mr. BACON. I will.

Mr. LODGE. I notice that all of the Senator's answers are in the future.

Mr. BACON. I will point them out in the way I desire to do it. I will point them, if they are here. If they are not here, it is due to the unusual methods pursued by the conference committee, which forces us to a discussion before we have had a chance to read the bill over.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. BACON. Certainly.

Mr. TILLMAN. If the Senator should have mistaken the meaning of some of these phrases, interlineations, amendments, and not be prepared, upon calmer and more thorough investigation, to substantiate his contention, it is due to the fact that Senators here have tried to drive this bill over us like an automobile, without any opportunity even to read it.

Mr. BACON. Certainly. Senators will pardon me for undertaking and assuming to present this matter in my own way. I will now resume the reading of this document.

At the time I was interrupted by the honorable Senator from California in his very proper inquiry——

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. With very great pleasure.

Mr. SPOONER. I think the business of the Senate and the public interest will be well conserved by permitting this matter to go over until to-morrow. No one can doubt what the Senator from Georgia [Mr. BACON] has said, that he has had no opportunity, except in the most superficial way, to read this bill, in which he thinks are provisions which discriminate against his section. The same thing is true of other Senators. It is really, under the circumstances, not the best way to debate objectionable points in this bill, if there be any. I appeal to the Senator who has the bill in charge, if it is agreeable to the Senator from Georgia, to let this matter go over until to-morrow.

Mr. BACON. Before this matter is disposed of I desire to say one thing. So far as I have been enabled to do so, I have not, as might have been supposed, consumed time with a word that I have regarded as irrelevant.

Mr. SPOONER. No.

Mr. BACON. I did not understand the Senator from Wisconsin to make any such suggestion.

Mr. SPOONER. Oh, no.

Mr. BACON. But such might have been the conclusion reached. I have endeavored to present it legitimately. But of course I am willing to submit to the convenience and better judgment of Senators, and either to go on now or to postpone my remarks.

Mr. SPOONER. I thought it would be agreeable to the Senator——

Mr. BACON. Absolutely so.

Mr. SPOONER. And to all other Senators to have the matter go over.

Mr. BACON. But I wished to say that much before yielding the floor.

Mr. SPOONER. Certainly.

Mr. DILLINGHAM. In view of the suggestion made by the Senator from Wisconsin and the fact that my colleague [Mr. PROCTOR] is anxious to call up the agricultural appropriation bill this afternoon, I am willing to yield.

Mr. BACON. I want to say that this particular document from which I have been reading is an important one, and I shall desire to have it all printed as one, with the permission of the Senate. I will give such directions—I do not know exactly whether it will be by withholding all of my remarks or simply that part of the document that I have read—in order that it may all appear at one time. I intend some time to finish the reading of the document.

Mr. NELSON. Mr. President, I wish to state to the Senate what has heretofore been the practice in such cases. I myself had a case of this kind, and in all cases where conferees have put in new matter, clearly and indisputably so, foreign to any action that had been taken in either body, it has always been the universal rule heretofore, when the attention of the Senate has been called to the matter and the fact has been undisputed, to withdraw the report. I had such a case many years ago in reference to the Indian appropriation bill, where the conferees put in a provision for the sale of an Indian reservation in the State of Minnesota—matter that was entirely new. We debated it here. The Senator from Maine and many other Senators took part in the discussion, and the conclusion of the debate was that the conference report was withdrawn.

The same thing took place last year in reference to the Indian appropriation bill. The same thing took place, if I remember aright, in reference to the interstate-commerce bill; and while it is not a rule, it has grown to be a practice of the Senate since I have been here where there is a clear case of this kind and it is brought to the notice of the Senate the report is always withdrawn. I think that practice ought to be adhered to in this case.

Mr. LODGE. Mr. President, in the first place, the conferees do not admit that there is any matter in the conference report which is not legitimately there in connection with the subject. They were very careful not to put in anything that was not either in the House or the Senate bill or immediately connected with the subject and modifying the section. They absolutely deny that there is matter improperly in the bill.

Mr. TILLMAN. Do I understand that this matter has now passed from the consideration of the Senate and that we are going to take up other matters?

Mr. SPOONER. It has gone over until to-morrow.

Mr. TILLMAN. It has not gone over. At least there has been no announcement.

The VICE-PRESIDENT. It has not been announced. Is there objection to the report going over? The Chair hears none.

GLASGOW LAND DISTRICT, MONTANA.

Mr. CARTER. Yesterday the bill (S. 7512) to provide for an additional land district in the State of Montana, to be known as the Glasgow land district, was passed by the Senate. Yesterday afternoon the House of Representatives passed a similar bill, which is now on the Vice-President's table, and I ask that it may be laid before the Senate for action.

The VICE-PRESIDENT laid before the Senate the bill (H. R. 20984) to provide for a land district in Valley County, in the State of Montana, to be known as the Glasgow land district; which was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That all that portion of the State of Montana included within the present boundaries of Valley County is hereby constituted a new land district, and that the land office for said district shall be located at Glasgow, in said county.

Mr. CARTER. I ask unanimous consent that the bill may be put on its passage at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. CARTER. I move that the bill (S. 7512) to provide for an additional land district in the State of Montana, to be known as the Glasgow land district, be recalled from the House of Representatives.

The motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. PROCTOR. I move that the Senate proceed to the consideration of the bill (H. R. 24815) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1908.

The motion was agreed to.

Several Senators addressed the Chair.

The VICE-PRESIDENT. Will the Senator from Vermont yield for a few moments to morning business?

Mr. PROCTOR. I can not yield for the consideration of any measure. I will yield for the introduction of bills or the presentation of reports, etc., but at this late hour I can yield to nothing else.

[Morning business was received, which will be found under the appropriate headings.]

SHORTAGE OF RAILWAY CARS.

Mr. HANSBROUGH. I offer a resolution which I desire to have acted upon at this time.

The VICE-PRESIDENT. The Senator from North Dakota submits a resolution, which will be read for the information of the Senate.

The Secretary read as follows:

Resolved, That the Interstate Commerce Commission be, and it is hereby, directed to send to the Senate, at the earliest practicable time——

Mr. CULBERSON. Unless the rule is to be applied fairly I shall object to the consideration of this resolution.

The VICE-PRESIDENT. Objection is made.

AGRICULTURAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 24815) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1908, which had been reported from the Committee on Agriculture and Forestry with amendments.

Mr. PROCTOR. I ask that the formal reading of the bill be dispensed with, that it be read for amendment, and that the committee amendments be first disposed of.

The VICE-PRESIDENT. Without objection, that course will be pursued.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Agriculture and Forestry was, on page 1, line 10, to increase the salary of the Secretary of Agriculture from $8,000 to $12,000.

The amendment was agreed to.

The next amendment was, on page 2, line 1, to increase the appropriation for the salary of one solicitor in the office of the Secretary from $3,000 to $3,500.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the office of the Secretary, on page 3, line 1, after the word "dollars," to strike out "one carpenter, $1,000" and insert "two carpenters and cabinetmakers, at $1,000 each, $2,000;" so as to read:

One assistant fireman, $600; two carpenters and cabinetmakers, at $1,000 each, $2,000.

The amendment was agreed to.

The next amendment was, on page 3, line 15, to increase the total appropriation for salaries, office of the Secretary, from $90,760 to $96,260.

The amendment was agreed to.

The next amendment was, on page 4, line 11, to increase the total appropriation for the maintenance of the office of the Secretary from $114,200 to $119,700.

The amendment was agreed to.

The next amendment was, on page 7, line 9, after the word "in," to insert "the District of Columbia or elsewhere in;" so as to read:

Salaries, station employees, Weather Bureau: Professors of meteorology, inspectors, district forecasters, local forecasters, section directors, research observers, observers, assistant observers, operators, repairmen, station agents, messengers, messenger boys, laborers, and other necessary employees, for duty in the District of Columbia or elsewhere in the United States, in the West Indies or on adjacent coasts, in the Hawaiian Islands, and in Bermuda.

Mr. KEAN. I should like to ask the Senator from Vermont what is the necessity of the amendment? It seems rather peculiar.

For duty in the District of Columbia or elsewhere in the United States.

Mr. PROCTOR. Because it is necessary and it is always inserted. These employees or some portion of them——

Mr. KEAN. They must all be in the United States.

Mr. PROCTOR. The Comptroller has held that those words should be inserted.

Mr. KEAN. They must all be in the United States.

The amendment was agreed to.

The next amendment was, on page 7, line 22, after the word "the," to strike out "establishment;" so as to read:

General expenses, Weather Bureau: Every expenditure requisite for and incident to the equipment and maintenance of meteorological observation stations in the United States, in the West Indies or on adjacent coasts, in the Hawaiian Islands, and in Bermuda.

The amendment was agreed to.

The next amendment was, on page 9, line 3, to increase the appropriation for the salary of one Chief of Bureau of Animal Industry from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was, on page 10, line 4, to increase the total appropriation for salaries, Bureau of Animal Industry, from $84,780 to $85,280.

The amendment was agreed to.

The next amendment was, on page 13, line 15, to increase the appropriation for experiments in animal feeding and breeding in cooperation with the State agricultural experiment stations from $25,000 to $50,000.

The amendment was agreed to.

The next amendment was, on page 27, line 6, to increase the total appropriation for the maintenance of the Bureau of Animal Industry from $1,006,980 to $1,032,480.

The amendment was agreed to.

The next amendment was, under "Bureau of Plant Industry," on page 27, line 10, to increase the appropriation for the salary of one Plant Physiologist and Pathologist, who shall be chief of bureau, from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was, on page 27, line 11, to increase the appropriation for the salary of one chief clerk, Bureau of Plant Industry, from $2,000 to $2,250.

The amendment was agreed to.

The next amendment was, on page 29, line 21, to increase the total appropriation for salaries, Bureau of Plant Industry, from $188,700 to $189,450.

The amendment was agreed to.

The next amendment was, on page 33, line 4, after the word "establish," to insert "and maintain;" in line 7, after the word "grain," to insert "including rent and the employment of labor in the city of Washington and elsewhere;" in line 9, before the word "thousand;" to strike out "fifteen" and insert "forty," and in line 13, after the word "grades," to insert "and for the issuance of certificates of inspection when requested by the consignor or consignee;" so as to make the clause read:

Grain investigations: To enable the Secretary of Agriculture to establish and maintain, at such points as he may deem expedient, laboratories for the purpose of examining and reporting upon the nature, quality, and condition of any sample, parcel, or consignment of seed or grain, including rent and the employment of labor in the city of Washington and elsewhere, $40,000, or so much thereof as may be necessary; and the Secretary of Agriculture is authorized to report upon such samples, parcels, or consignments from time to time, and

the reports so made shall serve as a basis for the fixing of definite grades and for the issuance of certificates of inspection when requested by the consignor or consignee of any grain entering into interstate or foreign commerce.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the purchase and distribution of valuable seeds, on page 34, line 12, after the word "of," to strike out "field;" in the same line, after the word "vegetable," to strike out the comma; and in line 23, after the word "determined," to strike out the comma and the words "to the Postmaster-General;" so as to read:

And the Secretary of Agriculture is hereby directed to expend the said sum, as nearly as practicable, in the purchase, testing, and distribution of such valuable seeds, bulbs, shrubs, vines, cuttings, and plants, the best he can obtain at a public or private sale, and such as shall be suitable for the respective localities to which the same are to be apportioned, and in which same are to be distributed as hereinafter stated, and such seeds so purchased shall include a variety of vegetable and flower seeds suitable for planting and culture in the various sections of the United States. An equal proportion of five-sixths of all seeds, bulbs, shrubs, vines, cuttings, and plants shall, upon their request, after due notification by the Secretary of Agriculture that the allotment to their respective districts is ready for distribution, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents, or mailed by the Department upon the receipt of their addressed franks, in packages of such weight as the Secretary of Agriculture and the Postmaster-General may jointly determine; and the person receiving such seeds shall be requested to inform the Department of the results of the experiments therewith.

The amendment was agreed to.

The next amendment was, on page 36, line 17, to increase the total appropriation for the maintenance of the Bureau of Plant Industry from $1,026,480 to $1,052,230.

The amendment was agreed to.

The next amendment was, under the head of "Forest Service," on page 36, line 21, to increase the salary of one forester, who shall be Chief of Bureau, from $3,500 to $5,000.

Mr. HALE. I wish the Senator in charge of the bill would tell us why this salary has been raised from $3,500 to $5,000.

Mr. PROCTOR. The salaries of the Chief of the Bureau of Animal Industry and the Chief of the Bureau of Plant Industry have stood for some years at $4,500. The salary of the Chief of the Forest Service has stood at $3,500, and that of the Chief of the Bureau of Chemistry has stood at the same amount. Those gentlemen never speak to anyone; I never was approached, directly or indirectly, in regard to any increase of the salary; but the duties have been very largely increased by recent legislation, and they must be men highly educated in their scientific pursuits as well as administrative men.

In another body as the bill was reported it gave $5,000 to the chiefs of the two bureaus, Animal Industry and Plant Industry, and to the chiefs of the Bureaus of Forestry and Chemistry $4,500. As the labors and requirements are substantially equal, your committee thought it best to put them all where they would stay, and we hoped that that would make the salaries of the chiefs of five bureaus, the Weather Bureau, Animal Industry, Plant Industry, Forestry, and Chemistry, $5,000. We think it is just and right in view of everything, their increase of duty, the increased cost, etc. These are men who must be kept permanently. I know they are refusing offers of higher salary. I think it is for the public interest to put the salaries at that rate, and I hope they will remain there for a long time. We raise the salary only $1,000 above what was reported to the other House.

Mr. HALE. Of course I realize that the Department of Agriculture is of much more importance than any other Department. The salaries of the Department are on a basis entirely different from those of any other Department. Some of the old, conservative, and fogy departments of the Government get on with much smaller salaries. In the old-fashioned way the salaries were considered first of the Secretary, then of the assistant secretaries, and then of the chiefs of bureaus, who have in every other Department been considered as inferior.

I should like to ask the Senator from Vermont what the salaries are in the Department of Agriculture for chiefs of bureaus, compared with assistant secretaries in the old established Departments—for instance, the State Department and the Treasury Department? Of course I realize that they are not so important as the Department of Agriculture, and that perhaps a clerk in the Department of Agriculture ought to be paid a higher salary than an assistant secretary in one of those Departments. What is the amount of salary paid in this bill for chiefs of bureaus compared with the salaries of assistant secretaries in the old Departments of the Government?

Mr. PROCTOR. I think most assistant secretaries get $4,500. The Assistant Secretary of the Department of Agriculture gets $4,500, and we saw no occasion to raise his salary.

Mr. HALE. I am not comparing the salary of the Assistant Secretary of that Department, but the salary of these chiefs of bureaus with the salary of the assistant secretaries in the old Department. Which is the largest?

Mr. PROCTOR. I was coming to that. The salary is generally $4,500, but the assistant secretary serves usually for a very limited time. The honor compensates him largely. I think as a rule their service will average much less than four years. They are merely administrative officers. The Senator's experience will bear me out in that statement. I have had some personal acquaintance with them. They are good men, but they do not expect to really get their living while here. On the other hand, these men have been educated at much expense of time and money for their special duties, and they must in the interest of the Government render long service, and it is for the interest of the Government that we should pay them so that we can keep them. We have had a good deal of difficulty in keeping them. Many good men have left the Department of Agriculture for that very reason, because they were offered by colleges and corporations higher salaries.

Mr. HALE. My recollection is that a great many assistant secretaries of the old Departments have rather incontinently abandoned their positions and gone to New York, because they can get higher pay in banks and great financial institutions. I have always supposed that they were educated men, and men worth competent salaries. My only point is that here is a pure instance of favoritism for a single Department and that lower grades of officers in this bill are not content with what they are getting now and are being put up on a scale that is beyond any other Department of the Government.

Mr. NELSON. Will the Senator allow me to interrupt him a minute?

Mr. HALE. Certainly.

Mr. NELSON. I am glad that the Senator has called attention to this matter. The Assistant Secretary of Agriculture is a scientist and an expert of a high order.

Mr. HALE. But, Mr. President——

Mr. NELSON. And he has been discriminated against here. The salaries of four chiefs of bureaus are raised to $5,000, and his salary is left at $4,500.

Mr. HALE. I think the Senator must be mistaken.

Mr. NELSON. Oh, no; it is a fact.

Mr. HALE. It can not be possible that the Assistant Secretary of this Department, who is only a creature of the day and may go out to-morrow, has been discriminated against, and that inferior officers are put above him in pay. Does the Senator say that that is right?

Mr. NELSON. It is proposed that four bureau officers shall get $5,000 and he gets only $4,500.

Mr. HALE. I think that must be a mistake.

Mr. BEVERIDGE. That is explained by the Senator from Vermont—that $500 represents the honor. There is $500 worth of honor and $4,000 worth of service.

Mr. HALE. It seems, because the Assistant Secretary is a creature of a day——

Mr. BEVERIDGE. Or of honor.

Mr. HALE. That he ought not to have as high a salary as his inferiors. I am not going to make trouble for my friend from Vermont, who is managing the bill, but it appears to me that the perspective of the bill is entirely lost sight of. We might cut down the salary of the Secretary, because he is the creature of a day. He is likely some morning to be notified by the President that his services are no longer wanted, and therefore we should put him down below these chiefs of bureaus.

I certainly can not understand on what scale of salaries inferior officers in a Department are by this bill put higher than superior officers, and I am not willing to consent under these conditions to the raising of this salary from $3,500 to $5,000. I will take the vote of the Senate upon it.

Mr. PROCTOR. It is because of their scientific attainments. Assistant secretaries can be pretty readily obtained. A man who has spent his life in fitting himself for his position is not so readily obtained. The assistant secretary in this case is deserving of a higher salary, and I would have been very glad to have made it $5,000, but he has been there for only a short time, and the assistant secretaries of most other Departments get only $4,500. That is so in the War Department and the Navy Department. I have been personally acquainted with some of the men who come into that position for a short time in the Treasury Department and other Departments. They do not come intending or wishing to make their living by it. It is not important to the Government that they should.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Minnesota?

Mr. PROCTOR. I yield to the Senator.

Mr. NELSON. I want to say to the Senator that the Assistant Secretary of Agriculture is no politician. He is a scientist and an expert. He was connected with the agricultural colleges of North Dakota, and for a great many years connected with the experimental station in the State of Minnesota. I have known him for a great many years. He is a scientist and an expert of a high order. He did not seek the office. The Secretary of Agriculture was acquainted with him and asked the President to appoint him. I happen to know that, because I was asked if I had any objection, and I said, "Certainly not; he is a first-class man."

Now, to discriminate against a man of that kind and to call him just an officer of the day is not exactly fair. When a man will leave his position in the State of Minnesota to perform this high work, to place him in the matter of salary as a subordinate to these bureau officers does not look to me to be just and proper.

Mr. BEVERIDGE. Mr. President, it seems to me that, upon the statement of the Senator from Minnesota [Mr. NELSON], for whose opinion on everything I have uncommon respect, there is no reason why the salary of the Assistant Secretary of Agriculture should not be raised.

Mr. HALE. Mr. President, I do not know to whom it applies. I do not know who is the chief of this inferior department or bureau of the Agricultural Department.

Mr. PROCTOR. Mr. Pinchot.

Mr. HALE. I think, under the conditions that have been disclosed here, the Senator from Vermont will not insist on raising this salary for this comparatively unimportant place in the Department above not only the salaries of much higher officers in the other Departments, but in this Department. I think an expression of the Senate ought to be had upon the question whether this salary shall be raised from $3,500 to $5,000.

Mr. PROCTOR. Then make it the same as the Assistant Secretary, $4,500.

Mr. HALE. The Senator says make it the same as the Assistant Secretary. What does the Senator from Minnesota say about that? Ought this chief of bureau to have as high a salary as the Assistant Secretary?

Mr. NELSON. It seems to me not. If this increase of salary of the bureau officers remains at $5,000 apiece, I shall certainly ask the Senate to make the salary of the Assistant Secretary $5,000 at least.

Mr. HALE. I think the Assistant Secretary ought to receive at least——

Mr. NELSON. He ought to be put on a par with them.

Mr. HALE. He ought to have $6,000 or $7,000.

Mr. NELSON. He ought to have $6,000, I am sure.

Mr. PROCTOR. These men are specialists. The Director of the Geological Survey gets $6,000. That is a bureau under the Department of the Interior.

Mr. HALE. I remember that that, in a sense, was forced upon the Director of the Geological Survey without any act upon his part. Congress insisted that he should have an increased salary. It was not, perhaps, as much as some of his friends wanted, but Congress insisted that he should be paid beyond the chief of any other bureau. I think it was understood that that was an exceptional case, and I did not suppose that because of that the Senate was to be asked to increase the salaries of these chiefs of bureaus beyond those of the higher officers in all the Departments. I do not think that ought to be instanced, because that is a case where the salary was forced upon the Director of the Geological Survey against his will.

Mr. PROCTOR. The salaries as reported in another body for these two chiefs were $4,500, and for the sake of putting the matter into conference I am ready to place it at $4,500.

Mr. BEVERIDGE. I hope the Senator with reference to this salary, now that our pleasantry is over, will not think of decreasing the salary the committee has fixed for this chief of bureau in this particular case. Five thousand dollars does not anywhere pay for the work that this man really does.

If a change is to be made let it be done by raising the salary of the Assistant Secretary rather than to see the great injustice done of cutting down the salary of this most faithful and most deserving public servant I ever knew, without any exception whatever. As the Senator from Vermont has explained, in this particular case there is not any question about the fact that the man by his acquirements and abilities and special aptness for the work and the actual service rendered is not compensated by the salary paid. If a change is to be made I shall hope it may be made in the other way, now that the pleasantry is over, rather than to have a reduction made in this salary.

Mr. HALE. Mr. President, the Senator from Indiana by mere association with this chief of bureau may believe we could not pay him too much money. That may be so, Mr. President, but I am not looking at the person; I do not know who it is; but I am trying to have some kind of scale established that will not be exceptional for persons, for individuals; and I think the Senator from Vermont should be content by keeping this salary at what it is now—$3,500. Is there danger of the present incumbent of this Bureau escaping from the Government service and entering private employment at a larger salary?

Mr. PROCTOR. Yes. Mr. Pinchot, as is very well known and understood, remains in his present place because he has a pride in his work. He is fortunately able to live without his salary; but it is a matter of justice that he should have this increase. I do not know of any man who has devoted himself more unselfishly to the public service than has Mr. Pinchot. I never heard of a whisper from him, either directly or indirectly, on the question of salary. I do not know that he knows that it has been proposed to increase his salary in the bill; but it is a matter of simple justice and fairness.

Mr. PATTERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Colorado?

Mr. PROCTOR. I do.

Mr. PATTERSON. Mr. President, Mr. Pinchot has been in Colorado a great deal, and we have read a great deal in the newspapers about him. I recall about three or four weeks ago reading a partial history of Mr. Pinchot, which represented him to be an exceedingly rich man who had entered the public service for an occupation, to be useful; that he took especial pride and interest in the matter of forestry, and that he was devoting his time to the forest industry as a sort of beneficence or gratuity to the people. The article was a very eulogistic one and appeared to be semiauthentic, as though it had been written from an interview with Mr. Pinchot or from a very direct knowledge of his life and purposes. I can well understand that any movement to raise his salary is not at his solicitation or his desire. Under those circumstances it seems to me that the suggestion of the Senator from Maine [Mr. HALE] should be agreed to, and that an exception ought not to be made in favor of the head of this Bureau for personal reasons or by reason of his peculiar knowledge and acquirements which fit him for the position.

I doubt, Mr. President, if Mr. Pinchot would really appreciate an increase of salary, because I think it would take from the services he has rendered that element in which he apparently seems to take pride—that of a man of great wealth, moved and influenced by patriotic, country-loving motives, giving service to the Government in the advancement of the great cause of forestry, a man peculiarly skilled and well adapted to his particular occupation. It seems to me it would detract very decidedly from the peculiar attitude Mr. Pinchot has been able to secure in the public mind in connection with this great work. That is a very good suggestion in view of those facts, and I presume they are facts, because they were stated in a newspaper that always tells the truth.

Mr. KEAN. What newspaper is that?

Mr. PATTERSON. One with which I am connected. [Laughter.] I think really Mr. Pinchot ought to be let alone—that is my view—and let him go on with the work he is doing and receive his reward in the sense of work well done.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Massachusetts?

Mr. PROCTOR. Certainly.

Mr. LODGE. Mr. President, I observe that the salary of the Forester is raised and the salary of the Chemist is raised—that is Doctor Wiley, I suppose?

Mr. PROCTOR. Yes. These salaries were reported, I will say to the Senator from Massachusetts, in another body at $4,500.

Mr. LODGE. Then, I find on page 47 of the bill the following provision:

> One Soil Physicist, who shall be chief of bureau, $3,500.

His salary is not raised.

Mr. HALE. Why not?

Mr. LODGE. Why should not the salary of the Soil Physicist be raised?

Mr. PROCTOR. That is a much less important position.

Mr. LODGE. He is paid at the same rate as the others were before.

Mr. PROCTOR. Yes; but the others have not been paid enough. Their duties and responsibilities have been very largely increased by recent legislation.

Mr. BEVERIDGE. Mr. President, I very sincerely hope that neither the Senator from Maine nor any other Senator will insist upon a change of the salaries fixed by the committee for

the two chiefs of those bureaus. With reference to the work of one of them I know particularly, because I myself have witnessed it in various parts of this country; and that is the work of the Chief Forester. I am quite sure the Senator from Colorado [Mr. PATTERSON], who is a just man and who, above all things, does not want to do any one man, not a technical injustice, but an injustice in spirit, is not in earnest in what he said a moment ago.

Concerning Mr. Pinchot—although I know nothing about his reputed wealth—I take it for granted that all of us understand that his reputed wealth makes not the slightest difference. The truth about it is that either in this Hall or in any other place in the public service, in the legislative or in the executive departments, I do not know a man who so long and so faithfully and so hard and so thoroughly has equipped himself for a great service to the whole country, and who, almost alone, by his work and by his talents, has created a very great beneficence for the entire Republic as this man; nor do I know here or in any Department, or in any line of work, private or public, I have seen in all my life, a man who gives his remarkable talents, his high and severely acquired accomplishments, so completely to any work as this man gives his whole life to the public service. When the Committee on Agriculture of its own motion, without any request from this man—because I judge he does not even know of it, as the chairman of the committee says he does not—has seen fit, as a matter of plain justice, the justice of proportion, to add this, I think that its wisdom and its justice ought not to be questioned.

I myself participated in the pleasantry that went on concerning the raising of a salary of a chief of a bureau above that of the Assistant Secretary of the Department—those are the humorous incidents that come up—but I do not see why the salary of the Assistant Secretary of Agriculture should not be raised to $5,000 a year; and because it is not, is no reason in the world why a man who earns that much and many times more, too, should not be paid at least this much.

The truth is that our salaries, as was pointed out by the Senator from North Dakota [Mr. MCCUMBER], all through our services are most disproportionate in view of the services rendered. Some men receive a small amount for doing very important and continuous service, and others receive a great deal too much. This is a case where the man does not receive enough—not by a great deal—and when a committee of this body, of its own motion, and solely because of the committee's knowledge of the work done, adds a small amount to a salary like this, I hope it will appeal to all Senators that the committee has done the right thing—the just thing. It is to these circumstances that I call the attention of the Senator from Maine and to the fact that the recommendation for this increase has not been secured by solicitation nor by importunity, for the chairman of the committee has informed us that it was done upon the motion of the committee itself, probably without the knowledge of the man, but solely by reason of the fact of the committee's knowledge of his very great services and his special aptitude and fitness and attainments for the work in hand.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Maine?

Mr. PROCTOR. Certainly.

Mr. HALE. I do not object to the impassioned appeal of the Senator from Indiana for his friend.

Mr. BEVERIDGE. I hope the Senator will pardon me for an interruption there——

Mr. HALE. Yes.

Mr. BEVERIDGE (continuing). To say this, first—and I think the Senate will bear me out in saying it—what I have said has been very calmly said, and the adjective "impassioned" does not apply to me in any way; and, second, that he will do me the justice to say that even if this were a question of personal friendship, I should be the last man here, or in any other place, to ask that public moneys should be paid on the ground of personal friendship.

I was entirely serious in what I said, and I had hoped I was quite moderate and even serene in my manner in stating that this addition to the salary, given on their own motion by the committee of this body, without importunity, which had been given, as the chairman has said, purely as a matter of justice—I hope the Senator will not raise any question of personal acquaintance or friendship of mine. He knows I am incapable of that.

Mr. HALE. Well, I will substitute the word "earnest" for "impassioned."

Mr. BEVERIDGE. I am earnest always.

Mr. HALE. I do not blame the Senator. In the discussions that come up here, Mr. President, there ought to be nothing personal.

Mr. BEVERIDGE. There is not in this discussion.

Mr. HALE. We are trying—and that is what I am trying to do—to put all these salaries on a proper basis compared with the importance of the places the officials fill. But when I am told that in any one bureau the duties are so vast, the range of subjects is so magnificent, and the duration of the term of office is so nearly eternal [laughter] we ought to give an additional salary, that does not appeal to me. My impression is, with some experience about salaries and dealing with appropriation bills, that we ought to keep all these places in their proper relation to the head of the Department; and nobody can persuade me that in a given case we ought to take the chief of a bureau and give him a larger salary than the chiefs of all the great bureaus in the other Departments receive, and a larger salary than his superior officers in his own Department receive.

The claim that is made by the Senator from Vermont that there is something special, something in education, something almost sacred that applies to this Bureau and to the person who is occupying it does not have any force with me. I am trying to have all these salaries put upon the proper basis. But for one I object, and shall ask the vote of the Senate upon it, to any increase of the salary of a bureau officer in this bill that puts him above not only the corresponding bureau officers in other Departments, but beyond his superior officers in his own Department. I suppose that is a very tame and uninteresting view of the subject, but it is my view of the subject, and that is what I am trying to call to the attention of the Senate.

Mr. PROCTOR. The Senator from Maine is familiar with the chiefs of bureaus of the Navy and War Departments, and he knows very well that they all receive higher pay than the Assistant Secretaries of those Departments. They are, to be sure, offices fixed by statute.

Mr. HALE. I was going to call the Senator's attention to the fact that in these Departments mere civilian officers do not receive higher pay than the Assistant Secretaries. If an officer of the Army or the Navy is detailed for service he gets the salary that his military rank entitles him to. But I did not know, Mr. President—and if I did I should be impatient of the fact—that in many of the great Departments of the Government we have put the salaries of bureau officers above the salaries of the Assistant Secretaries.

In the old days, Mr. President, the Assistant Secretaries in all the Departments were selected with the greatest care. In my day in Congress the Assistant Secretaries of the Treasury Department were not only competent men, but they were great men; they were not clerks; they were not stenographers; they were not men who were introduced into the Departments because of any special favoritism; but they were men who, when the emergency arose, were amply competent to succeed to the place of the head of the Department. I should be very glad to maintain that condition as it used to be; and the one way of maintaining it is to give to these great officers, who stand next to the head of the Department and may be called upon to assume the duties of the head of the Department, corresponding salaries. It is a slight upon these officers to select a chief of bureau below them, who only has to deal with an inferior sphere in the Department, and put him above the Assistant Secretary. I agree with the Senator from Minnesota in that regard. The Senate ought not to agree to any such proposition.

Mr. BEVERIDGE. It has not been shown that the assertion of the Senator from Vermont, the chairman of the committee, that the increase in the salaries of the two chiefs of bureau in question, was proposed as a matter of justice, is not true. The statement of the Senator from Maine, I think, is rather inconsistent. He objects that the salaries of bureau chiefs should be higher than the salary of an Assistant Secretary; but surely the Senator from Maine would not do the other men—two of them, I believe—an injustice by not raising the salary of the Assistant Secretary $500.

Mr. HALE. I do not believe their salaries ought to be as high as the salaries of the Assistant Secretaries. I think they ought to be kept lower.

Mr. BEVERIDGE. But I have said——

Mr. HALE. I think the rule ought to be that they should not be paid the same. By this amendment they are increased beyond what the Assistant Secretaries receive. I am not willing that they shall be put up even with the Assistant Secretaries. They ought to be kept in their proper place as chiefs of bureaus. They have subordinate work and smaller jurisdiction, and the Senate ought not to agree, because somebody wants one or two chiefs of bureaus put up to a high rate, that that shall

be done and thereby disturb the harmony which I am trying to establish in the offices of the different Departments of the Government.

Mr. BEVERIDGE. In answer to that, I will say, with all due deference to the Senator—and no person in the world has more than I—the harmony the Senator suggests is, after all, but the shadow of harmony. I do not believe that there should be a lower salary because a man is called by some particular name. The better rule of harmony is the rule of simple, sheer justice; of the just proportion of pay for a corresponding proportion of work.

Of course the Senator had no special reason for making the objection at this particular point. Of course the Senator from Maine did not strike at the Chief Forester directly. He is incapable of that. He would have attacked anybody else as readily. The Senator from Vermont says, and he knows, and I know, and the Senator from Maine knows, that subordinate heads of the Navy Department are paid more than those above them.

Mr. HALE. They are naval officers.

Mr. BEVERIDGE. If it be so in the Navy Department, I see no reason why it should not be true for the Agricultural Department. It is because they do more work, and not for any other reason. It is not because one man wears a civilian's coat and another man wears epaulets. In this particular instance the chairman of the committee has said to the Senate that it was done not only because these men did more work, but because the work was of a special nature, requiring expert knowledge. I call the Senator's attention to the fact that we have already passed, without objection upon the part of the Senator from Maine or any other Senator, two other items at least raising the salaries of chiefs of bureaus from $4,500 to $5,000, and nobody objected at all. Not until this point was reached was there any objection; but of course the Senator from Maine did not mean to concentrate his vigilance upon the Chief Forester. I can not believe that—I do not, notwithstanding the point has not been made until now, although we have agreed already to favor similar increases less deserved.

Mr. HALE. In this bill?

Mr. BEVERIDGE. Yes.

Mr. HALE. I have been at work on the naval appropriation bill and have just come into the Senate, but I will say that before we get through I shall ask to go back——

Mr. BEVERIDGE. I was sure the Senator did not make any special point on the amendment under discussion.

Mr. HALE. In the little time that we have I do not want to be obliged to explain a thing twice to the Senator from Indiana. I have said that the heads of bureaus in the Navy Department do not receive superior pay, because they are not in civil life, but they are detailed for service because they are officers of the Navy, not because they have superior duties; but when they are detailed for that service their pay is larger——

Mr. BEVERIDGE. Because their work is larger.

Mr. HALE. But that is the military feature. I do not understand that the military feature applies to the Department of Agriculure. It is very embracing in its terms and has great privileges, but it is not yet a military department of the Government, and the rules that apply in the Army and Navy and in the War Department and Navy Department do not apply to it. I suppose in time they will; but I object to it, Mr. President. When the Senator says that we have already raised the salaries of two chiefs of bureaus, that is not final.

Mr. BEVERIDGE. I said the Senator had not called attention to them, and I was sure he did not mean to make a special point on this amendment.

Mr. HALE. I am very glad the Senator has called my attention to those items; and when the bill reaches the Senate I shall venture to go back and object to those salaries being raised.

Mr. BEVERIDGE. Notwithstanding the paucity of time that remains—and I know how very valuable that is; we spent almost half the session with a great deal of discussion about one matter, but I have not taken very much time until the other day, and then I took considerable—I must be permitted to say to the Senator that, after all, the "military feature" is nothing mysterious, I suppose. I presume that, after all, the reason for giving certain officers more salary than is given to others is not based on any mystery, but upon their service and the nature of their service. So that to use the words "military feature" to justify higher pay to some naval officer than to a civilian officer in the Navy Department superior to what that naval officer receives is no answer. The reason undoubtedly must be—else it is a foolish thing and it is not explained by the mere term "military" or "naval feature"—that the person who gets higher pay does greater or more important service. That, undoubtedly, is the reason for differences in the Army between the pay of officers and the pay of soldiers. So here the reason assigned by the chairman of the committee for this increase of salary, upon the committee's own motion, without solicitation, is precisely the same reason that undoubtedly exists in the Navy and in the Army—that is, more pay as a matter of justice for more service and service of a special kind.

That is the question that we are confronted with, and not a bureaucratic rule that, because a man has a higher title, he shall have more money, but the rule of simple justice of proportionate pay for proportionate service.

A great deal has been said—and I think it would not have been said if it had been thought over—about the personal business and financial condition of some of these officials. That has nothing whatever to do with it. A man who is not worth a cent, so far as his personal fortune goes, deserves no more from the Government for work performed than a man worth millions of dollars for the same work performed. The Government is no eleemosynary institution. It is no beggar, either. It is not soliciting or accepting service from any man who is rich merely because he is rich and can afford it; neither is it giving salary to some person who is poor because he needs it—but in both instances for work actually performed, because they have justly earned it.

I hope the Senator from Vermont will insist on the amendment.

Mr. HALE. I for one am entirely willing to leave this matter to a vote of the Senate. I do not want to consume any more time.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Idaho?

Mr. PROCTOR. Certainly.

Mr. HEYBURN. Mr. President, I think it is proper and important at this time to interject into the RECORD some facts contained in a report of the Secretary of Agriculture as to the condition of this fund. We can not properly consider this provision of the bill without taking that into consideration.

I will say, in passing, that I have frequently been met with the argument, in defense of the high character of the acts performed by this officer of the Government, that his salary is no consideration; that he is contributing his services, his valuable services, to the country. That has been frequently stated in public addresses and in newspaper articles in response to criticisms that have been made of the policy of the Department. That has always seemed to me quite immaterial, and I am of the same mind as is the Senator from Maine [Mr. HALE] in regard to the wisdom or advisability of increasing this salary. There is nothing personal to me about it, but I should like to call the attention of the Senate to this condition of facts.

Under the direction of this officer, and under his control now, there is a special fund, and according to this report of the Secretary of Agriculture on the 12th day of April, 1906, there was a balance to the credit of the special fund amounting to $273,363. That is an irresponsible fund in the hands of, and subject to the disposition of, these officers. Why should not that money be covered into the Treasury for the purpose of paying the expenses of the administration of this Department? It is now, I think I am safe in saying, much more than that. That was a year ago. In connection with that report the Secretary says:

> The amount to be collected during the remaining three months of the present fiscal year is estimated at $262,000.

In three months. That covers the collection for the grazing period.

Mr. FLINT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from California?

Mr. HEYBURN. Certainly.

Mr. FLINT. I should like to ask the Senator whether or not the report shows what this money is to be used for, and whether he does not desire more money properly to carry on the forestry-reserve work?

Mr. HEYBURN. I was coming to that. According to this statement during the current year in which this sum of money was collected the total expenses of the Department in the field were $43,323. So there was enough on hand in this special fund to conduct the expenses of this Department in the field for six years. It is a rapidly increasing fund. It is safe to say that now, upon the present basis of administration, there is in this special fund more than enough to make it unnecessary to appropriate a single dollar for the purpose of maintaining this work.

I call attention to a provision of this bill on page 42, in which the bill as it came to the committee of the Senate carried an appropriation of $500,000, "to be expended as the Sec-

retary of Agriculture may direct for proper and economical administration, protection, and development of the national forests." It came to the Senate committee appropriating $500,000, and the Senate committee has reported in favor of a million dollars—a million dollars in addition to this rapidly accumulating fund, which, while it is nominally in the Treasury of the Unted States, is there as a special fund. According to the report of the Secretary of Agriculture the fund is disbursed "for expenses or refunds * * * out of the special fund in accordance with the law and regulations of the Treasury Department and of the Department of Agriculture."

So you see it is an irresponsible fund. There is an officer, termed a fiscal agent, who seems to receive and disburse this fund, and he does it, not pursuant to an act of Congress, as the Constitution of the United States provides that public moneys shall be disbursed, but he does it upon an order from these heads of bureaus, nominally an order from the Secretary of Agriculture, but really, I should say, from the heads of bureaus. This immense fund, already perhaps more than half a million dollars—certainly it was more than a quarter of a million dollars a year ago—to be augmented by a million dollars reported in this bill, and with this immense fund to conduct the Forestry Bureau, they come here and ask us to appropriate for this purpose something in the neighborhood of $2,000,000.

It seems to me, when we are considering the question of the salaries of these officers, we must necessarily take some heed of the duties they perform; and in connection with that, of the necessity for this appropriation; and in connection with that again, the propriety of taking it out of the Treasury of the United States as against paying it out of this special fund which is in their hands and under their control. This is a very badly organized branch of the Government. It is tying up a large sum of public money, to be used, not under the direction of Congress, not pursuant to an act of Congress, but at the will and pleasure of and pursuant to an organization over which Congress has no supervision or control. Is that the way the Government should be conducted? Is there any other branch of the Government conducted along those lines?

It is proposed now that we shall place the Interior Department upon this same basis, and give it a large irresponsible fund for disbursement under practically the same or like conditions. But we might just as well, in dealing with this question, now face the proposition whether we are going to allow it to be the medium of accumulating a million or two million dollars, which is withdrawn from public use under our direction and is used at the will and the pleasure of the Forestry Service.

It seems to me that the officer at the head of this Bureau, whether he may be capable of earning more money in some other occupation or capacity, is receiving quite a sufficient compensation for the character of the service that he is rendering to the country at large; and we may well pause to consider whether the country is benefiting to any extent by the service which he is rendering.

Mr. PROCTOR. Mr. President, the salaries of all of the chiefs of bureaus in the Department of the Interior are $5,000, with the exception of that of Director of the Geological Survey, who has $6,000. The salaries of the chiefs of bureaus in the Department of Commerce and Labor—Corporations, Labor, Standards, Coast Survey, Fisheries, Immigration—are all $5,000. The Census is larger.

The committee in this matter were actuated merely by what they believed to be right and due to the officers and the public service. It was not to be supposed that an amendment affecting this officer whose salary is now under consideration, taking up new duties, affecting western interests, would be adopted without friction. But he is one of the very highest types of the faithful, hard-working Government officers, and this proposed increase of salary is no more than an act of simple justice.

I am ready, as the Senator from Maine has expressed himself, to have a vote upon the amendment.

Mr. HALE. It is very late. Let us have a vote on the amendment.

The VICE-PRESIDENT. The question is on agreeing to the amendment reported by the Committee on Agriculture and Forestry.

Mr. HALE. Let the amendment be stated.

The SECRETARY. On page 36, line 21, under the Forestry Service, after the word "Bureau," it is proposed to strike out "three thousand five hundred" and insert "five thousand;" so as to read "$5,000."

Mr. HANSBROUGH. Mr. President, I am in entire sympathy with the Senator from Maine [Mr. HALE] when he stated that the Assistant Secretaries of these Departments should receive greater salaries than the chiefs of bureaus or the chiefs of divisions, whatever they are called. I believe that the Assistant Secretary of the Agricultural Department, Professor Hays, should receive at least $5,000, and if the chiefs of bureau are to receive $5,000, I think his salary should be made $6,000. I was not fortunate enough to be present at the meeting of the committee when final action was taken upon the question of his salary. That is the view I hold on the subject.

Mr. President, I was very much interested in the facetious remarks of the Senator from Maine with respect to the Agricultural Department, and notwithstanding the very complimentary things which the Senator said about that Department, I very much fear that the Senator from Maine underestimates the importance of the institutions of agriculture in this country. The American farmer is the basis of the prosperity of the whole country, in time of peace or in time of war, and especially in time of war; always in time of peace, because in time of peace we are preparing for war. And as the Senator from Maine talked about this great Department of Agriculture I could not help but recall the efforts of that Senator here year after year to build up the Navy of this country so that we might be ready for war.

The Senator from Maine, as chairman of the great Committee on Naval Affairs, comes in here from year to year with increased appropriations in the naval bill, asking for more battle ships; and the Senator from Maine is getting ready for war constantly. He ought to be in sympathy with the institution of agriculture, because if it were not for the institution of agriculture the Senator from Maine could not go to war. I read in the paper only a few days ago that it was proposed to construct another great battle ship, something superior in strength and importance to the *Dreadnought*, I think.

Mr. PERKINS. Two ships.

Mr. HANSBROUGH. Perhaps it was two; and I at once thought of the big task the Senator from Maine had on his hands, because I have been much interested in the efforts of the Senator to get ready for future conflicts as he brings in these great appropriation bills from year to year. So I simply desire to call attention to the fact that we ought to have the sympathy of the Senator from Maine in our efforts to do everything possible for the institution of agriculture.

Mr. HALE. Mr. President, the Senator from North Dakota [Mr. HANSBROUGH] is entirely behind the times. The criticism to which I have been subjected of late is not that I seek a swollen Navy, but that I am trying to keep it down. I have never committed myself to the programme of building now two enormous ships costing more money than any ever built before, larger than any nation has built; but I want to proceed slowly; and if I were sensitive to comment, I should be troubled, not by the criticism of the newspapers that I am seeking to unduly swell the Navy, but that I am keeping it down and am for reasonable appropriations. So I say in that regard the Senator has not kept up with the march of the times. I should be very glad to see some of the great appropriations that Congress grants for the military branches of the Government, the Army and the Navy, diverted to the Department of Agriculture.

I agree fully with the Senator, and one fault, one lamentable condition, to-day in Congress and elsewhere is that we are paying altogether too much attention to the military features and departments of the Government and are paying too little attention to the real needs of the people as represented in the non-military departments. I do not want to limit the appropriations in a proper way of the Department of Agriculture in any respect. I agree with the Senator entirely; and I think the money we put into needless and not called for great battle ships would be better employed if devoted to promoting the interests of peace and the people at home and the development of home industries, without being affrighted by this blight on public sentiment that tells us we have to keep on increasing military appropriations. I am entirely in favor of that policy which does more for the pacific departments and for the people of the country and all their interests rather than the military.

So I am not sensitive to the criticism of the Senator who, as I say, is behind the times upon that point. I want the Agricultural Department to be promoted, and everything that tends to add to the interests and to the development of agriculture should be appropriated for by the Government rather than to war expenses. My interest in this matter is not in any way hostile to the Department of Agriculture or the interests of agriculture or the interests of the people. I only want a proper relation of the offices of this Department of the Government; and with this explanation I am entirely willing to take the sense of the Senate on the question of increasing the salary of this bureau officer.

Mr. FULTON. Mr. President, I shall not attempt to take up the time of the Senate to any great extent in discussing this

question. I should have been fully content to let the amendment pass without saying a word about it were it not for the fact that the increase of this salary is based largely by the advocates of it upon the excellent service that the Forestry Bureau has rendered the Government and on the splendid organization which has been brought about in that Department. If the increase of the salary is to be the evidence of our appreciation of the excellent work they have performed and of the splendid organization they have built up, I should prefer to express my judgment in that matter by decreasing the salary.

I think it is the worst organized Department of the Government. I think the manner in which it is conducted is less creditable to those who have charge of it than any other Department. I am not going to take time to explain my views to the Senate, but I simply make this statement as an explanation of my vote. I shall vote against the proposed increase.

Mr. FLINT. Mr. President, I do not want a vote taken on the pending amendment with the understanding that all in the West subscribe to the doctrine that the Forest Reserve Service is not properly managed, and that the West is not in favor of the present management and control of forest reserves.

As far as the State of California is concerned, we believe in forest reserves. We believe in the Forestry Service as managed by Mr. Pinchot. We believe we have had a splendid business administration, and when it comes to increasing the salaries of the heads of bureaus in the Department of Agriculture there is no one more deserving of an increase from the standpoint of efficiency than Mr. Pinchot.

As far as concerns the table of money, as set forth by the Senator from Idaho [Mr. HEYBURN], I believe that a careful investigation of the disposition of money under Mr. Pinchot's management will show that we have had an economical, honest, and efficient administration of the affairs of that department. If it had not been for a management such as Mr. Pinchot is now giving us, and if these tracts of land in the West had not been included in forest reserves, we would have the same condition in the West that now exists in the East. Our streams would be dry in summer time, and we would have no water for irrigation or the generation of electricity.

Mr. PILES. Mr. President, I wish to say only a word. I desire to follow somewhat the line pursued by the Senator from California [Mr. FLINT]. In the State of Washington, as I presume elsewhere, mistakes have been made, no doubt, with respect to forest reserves, but I have found that that department has at all times been ready and willing to correct any serious mistake.

Mr. President, I have found upon consideration and investigation that this department is doing a real service to the people of this country, and while, as a matter of fact, injustices have crept in here and there, those injustices have in a large measure been corrected, and they will continue to be corrected. I believe that this officer is entitled to the salary which the committee has recommended for him, and that he is doing and his department is doing a very great service to the people of this country.

Mr. BEVERIDGE. Mr. President, I have already spoken, I am aware, twice, perhaps three times; it may be four times. It is a matter, however, where if I were not acquainted with the man, but only with his work, I should speak, if it would do any good, five or even ten times. This is a case which involves merely an act of justice.

This department—for it amounts to a department—has come in conflict once or twice here and there with the views of Senators in one or two of the Western States. This thing is true, and it ought to be the highest commendation that can be won by any public officer, that in no instance has the policy of this department or of its chief been swerved by the appeals or influence of any man, but only by considerations of the public good; and, as the Senator from Washington [Mr. PILES] said a moment ago, where any mistake has been made—and I suppose that even in the Senate sometimes we make mistakes; rare, unprecedented things, of course, for any of us to do—it has been immediately corrected, as a good, faithful officer should do.

I have just now had my attention called to the fact—I did not know it, and I am much surprised—that the salary of this officer, what might properly be said to be this great public officer (for he has earned the adjective "great") has been $3,500 a year, and it is that to-day. Mr. President, that is what it was when this Bureau was established before the admirable forestry service of the United States was developed. The American Forestry Service is now rising to an equality with some of the great European forestry services, which render to their governments a large part of their revenues. Yet the salary is the same to-day, after the notable achievement has been performed, as it was when the Bureau was established, although the work, the responsibility, the importance of the whole thing, and its benefits to the people have increased many fold.

With reference to the point made by the Senator from Idaho, his antagonism to this department we all thoroughly understand. He is very earnest and bold about it. The Senator and the Department have come into contact, and it seems that neither side has yielded, both doubtless being actuated by a sense of justice of his own position.

I have not the figures here. It is too bad that I have not. I did not know that any such thing as this would come up, because I would have been glad to have gone to a great deal of pains to get the figures. But the truth is that the administration of the forests of the United States under this department has made enormous quantities of money—not tens of thousands, but hundreds of thousands, and, I dare say, even millions of dollars. I suppose that in the whole service there is not a department that has actually earned so much money for the Government as this department.

Last year in the debate—quite a casual debate that came up concerning the revenues that came from the renting of the grazing lands—the Senator from Idaho and the Senator from Oregon, both of whom have signified their antagonism to this Department several times on this floor by reason of some conflict with it——

Mr. FULTON. I had not indicated any purpose to invite a debate with the Senator from Indiana. I do not know why he should admonish me.

Mr. BEVERIDGE. I saw in the Senator's face a look of eagerness and a defiant attitude.

Mr. FULTON. It was mere admiration of the Senator from Indiana.

Mr. BEVERIDGE. I did not know when the Senator from Maine raised his point that he was really in earnest. He was in one of those cheerful moods which charm us all, and I supposed we were having somewhat of a relief from the high tension under which we had all been this afternoon in the debate on immigration.

When I found that there was really an objection, perhaps beginning in good humor, but growing in determination as the debate proceeded, I could hardly believe that in view of the actual facts which every Senator here ought to be familiar with anybody was going to question the increase of this salary, which every Senator ought to remember was put on here as a matter of sheer justice by the committee itself, upon its own motion, and as a matter of plain justice in paying for the services of one of the most ideally faithful, hard-working men who belong to the public service in this Republic.

Should it be that the Senate will do what I hardly anticipate it may do, and vote this increase out, I give notice of my intention to move a reconsideration, when I can equip myself with the figures and the facts about this matter.

Mr. HALE. I hope, notwithstanding the menace of the Senator from Indiana, he will more fully equip himself in order to put back the action of the Senate, that on this simple question of raising salaries we may vote in an unrestrained way.

Mr. BEVERIDGE. The Senator from Maine must permit me to say that I am sure he is again dealing in humor when he says there was any threat on my part. There was nothing of the kind. It was a mere statement, such as any Senator makes here, and such as the Senator himself has made many times.

As a matter of fact I do not anticipate that the Senate is going to do anything of that kind. The only reason why I referred to it was by reason of some figures which the Senator from Idaho read here, because, as a matter of fact, as the Senator from California has said—and he ought to know, for he has a great part of the administration of this Department in his own State—from his personal knowledge there is not a Department which has rendered more faithful service, nor the head of a Department which has possibly more fully earned, as a matter of plain justice alone, an increase of salary. The Senator knows there is no menace in that.

Mr. HALE. If we can get a vote, of course it will dispose of this question; but I suggest to the veteran Senator from Vermont in charge of the bill that it is very late, and unless we can get a vote we had better adjourn.

Mr. BURKETT. I wish to occupy only two minutes.

Mr. HALE. It will probably be only a prolongation of the Senate's session to no purpose to continue the debate.

Mr. PROCTOR. I trust that in a very few moments we can get a vote. I yield to the Senator from Nebraska.

The VICE-PRESIDENT. The Senator from Nebraska was recognized by the Chair, and he is entitled to the floor.

Mr. HALE. I am entirely willing to take the judgment of the Senate on the question.

Mr. McCUMBER. Will the Senator from Nebraska yield to me for a moment?

Mr. BURKETT. Certainly.

Mr. McCUMBER. It is suggested that there may be a vote after the Senator from Nebraska has completed his remarks. I wish to state that there may be others who wish to discuss this same question of salaries. I suggest that it is late and that probably we would get through with it more quickly if we would have an adjournment now; that we would thus get a vote sooner than we would by prolonging the debate after the Senator from Nebraska has submitted his remarks.

Mr. PROCTOR. We will hear the Senator from Nebraska, anyway.

Mr. BURKETT. Mr. President, I was about to suggest that possibly a very little consideration of this matter would adjust it all. I notice that here are four or five heads of bureaus. The Chief of the Weather Bureau gets $5,000, and the chiefs of the next two have been getting $4,500, and the Chief of the Forestry Service, $3,500. The Senate is aware that those salaries have probably been raised from time to time on account of the particular individual who temporarily occupied the position. Why the Chief of the Weather Bureau gets $5,000 and the Chief of the Forestry Service, of more importance to more people, gets $3,500 it is not easy to see.

If this is to be voted down or up we ought to take into consideration what we have already done with the salaries of other chiefs of bureaus. We have raised one to $5,000, and it seems to me it would be an injustice, perhaps irreparable, if we would go to work and cut this one down, or leave it at $3,500. We find that $5,000 was proposed by the committee, and it seems to me we should not give one chief of bureau $5,000 and another one $3,500 who is certainly putting in more hours than the head of another bureau in this Department.

Mr. HALE. I should like to have it understood that this is no drive against the Bureau of Forestry. Whatever is done by the Senate upon this salary ought to be done with the other salaries. Already, without contention, we have passed increases in other bureaus, but certainly if the Senate does not agree to this increase we should go back and, so far as we can, put all these bureaus in proper correlation to the higher officers in the Department.

We have by solicitation and without much thought or consideration added to the salaries of some of these bureaus; but this is perhaps the first time the salaries of the subordinates, compared with higher officers in this and other Departments, have been brought to the attention of the Senate. If the Senate does not increase this salary, I shall certainly ask that the same rule shall apply to these other bureaus.

Mr. BURKETT. I think the Senator is perfectly right, and that is the only observation that I desired to make, that we ought to keep this on a level with the others. This place is just as important and this is just as good a man. I do not take any stock in the argument that is made that this increase should not be made because this particular man is rich. I should not want to have that principle applied to the members of this body. Perhaps none of us would wish to have it applied here or anywhere else.

I do not think a different rule should be made here, because just at present this particular Bureau is unpopular in certain sections. We do know that this man is rendering about all the hours there are day and night in service to the country in this Bureau. I think the salaries ought to be kept together. Whether it be done by leaving it as the committee has recommended or straightening it out by to-morrow, adjusting them all, the Weather Bureau and the others, by passing the matter over to-night for further consideration, of course can be determined; but certainly there ought not to be a difference of $1,500.

Mr. BEVERIDGE. I wish to call the attention of the Senator from Nebraska to this: Even if the suggestion of the Senator from Maine, that all these increases be cut down, should be adopted, nevertheless the point the Senator from Nebraska makes is not met at all, because it appears that the service of this officer, as everybody knows, is equally as important and equally as efficient, and yet his present salary is a thousand dollars below the salaries of all the other chiefs of bureaus.

So if the point that there should be no increase, as is provided by the amendment of the committee, is sustained it would do the very injustice the Senator from Nebraska so well points out, and leave this man $1,000 below the Chief of the Bureau, for instance, of Animal Industry, of the Weather Bureau, and so forth, because the original salary was that much lower.

Mr. HALE. I do not want to interfere with the Senator from Vermont. He is entitled to conduct the order of business, because he is in charge of the bill. However, I do not think anything will be gained by remaining here any longer.

Mr. PROCTOR. I am quite as willing as the Senator from Maine to take a vote. I see no occasion for any further discussion. If there are Senators who wish to discuss the matter further——

Mr. HALE. The Senator from North Dakota [Mr. McCUMBER] intimated that he desires to speak upon it.

Mr. PROCTOR. Will it be a speech in one installment or two or three?

Mr. HALE. I do not know. I have never been able to tell that.

Mr. McCUMBER. I will simply suggest that I stated when the Senator from Nebraska [Mr. BURKETT] got through we would not be quite ready to vote. I thought that was a gentle intimation that probably there would be some other remarks upon the question. I simply suggested that, so that if the Senator should desire to adjourn at that time we could do so.

Mr. PROCTOR. Do I understand that the Senator from North Dakota wishes himself to make a speech?

Mr. McCUMBER. That is about what it means.

Mr. PROCTOR. That is sufficient. If he does, I am decidedly in favor of an immediate adjournment. I move that the Senate do now adjourn.

The motion was agreed to; and (at 6 o'clock and 8 minutes p. m.) the Senate adjourned until to-morrow, Friday, February 15, 1907, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February 14, 1907.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

EULOGIES.

Mr. JONES of Virginia. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the Clerk's desk.

The Clerk read as follows:

Ordered, That when the House shall adjourn on Sunday, February 24, it shall be to meet at 10 a. m. on Monday, February 25, and at the said session of Monday, the 25th, eulogies of the life, character, and public services of the Hon. JOHN F. RIXEY, late a Representative from Virginia, shall be in order until the hour of 12 m.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

RIGHT OF WAY THROUGH FORT WRIGHT MILITARY RESERVATION, WASH.

Mr. JONES of Washington. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill S. 8288, authorizing and empowering the Secretary of War to locate a right of way for and granting the same and a right to operate and maintain a line of railroad through the Fort Wright Military Reservation, in the State of Washington, to the Portland and Seattle Railway Company, its successors and assigns, and put the bill on its passage, a similar House bill being on the Calendar.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War is hereby authorized and empowered to locate a right of way, not exceeding 100 feet in width, except that for bridges and other structures and approaches thereto he may, in his discretion, locate a right of way not exceeding 150 feet in width, through the lands of the Fort Wright Military Reservation, in the State of Washington, if in his judgment it can be done in such a manner as not to interfere with the uses of said reservation for military purposes by the United States; and when said right of way shall be so located it is hereby granted, during the pleasure of Congress, to the Portland and Seattle Railway Company, a corporation organized under the laws of the State of Washington, its successors and assigns, for the purpose of constructing a railroad and telegraph line thereon: *Provided*, That the said right of way and the width and location thereof through said lands, the compensation therefor, and the regulations for operating said railroad within the limits of the said military reservation so as to prevent all damage to public property or for public uses shall be prescribed by the Secretary of War prior to any entry upon said lands or the commencement of the construction of said works: *Provided also*, That whenever said right of way shall cease to be used for the purposes aforesaid the same shall revert to the United States.

SEC. 2. That Congress reserves the right to alter, amend, or repeal this act.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Reserving the right to object, I would like to inquire of the gentleman if this is the unanimous report of the committee?

Mr. JONES of Washington. This is the Senate bill, and a